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— Burk declars that doctor
Knox Never incouraged him Nither taught
him or incouraged him to murder any
person Nither any of his assents that
worthy gentleman Mr. Ferguson was
the only man that ever mentioned
any thing about the bodies He
inquired where we got
any woman Nelson that
Sined William Burk prisoner

WILLIAM BURKE.

as he appeared at the Bar,
taken in Court.

*Published by Thomas Ireland Junr. Edinburgh.*

# WEST PORT MURDERS;

OR AN

AUTHENTIC ACCOUNT OF THE ATROCIOUS MURDERS

COMMITTED BY

# BURKE AND HIS ASSOCIATES;

CONTAINING

A FULL ACCOUNT OF ALL THE EXTRAORDINARY CIRCUMSTANCES CONNECTED WITH THEM.

ALSO,

## A REPORT OF THE TRIAL

OF

## BURKE AND M'DOUGAL.

WITH

A DESCRIPTION OF THE EXECUTION OF BURKE,

HIS CONFESSIONS, AND MEMOIRS OF HIS ACCOMPLICES,

INCLUDING

THE PROCEEDINGS AGAINST HARE, &c.

---

ILLUSTRATED BY PORTRAITS AND VIEWS.

---

"O horror! horror! horror! tongue nor heart
Cannot conceive nor name thee!"

*Macbeth.*

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PUBLISHED BY THOMAS IRELAND, JUNIOR,
57, SOUTH BRIDGE STREET.

1829.

GIFT
Murphy

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# THE WEST PORT MURDERS.

We have heard a great deal of late concerning "the march of intellect" for which the present age is supposed to be distinguished; and the phrase has been rung in our ears till it has nauseated us by its repetition, and become almost a proverbial expression of derision. But we fear that, with all its pretended illumination, the present age must be characterized by some deeper and fouler blots than have attached to any that preceded it; and that if it has brighter spots, it has also darker shades and more appalling obscurations. It has, in fact, nooks and corners where every thing that is evil seems to be concentrated and condensed; dens and holes to which the Genius of Iniquity has fled, and become envenomed with newer and more malignant inspirations. Thus the march of crime has far outstripped "the march of intellect," and attained a monstrous, a colossal development. The knowledge of good and evil would seem to have imparted a fearful impulse to the latter principle; to have quickened, vivified, and expanded it into an awful and unprecedented magnitude. Hence old crimes have become new by being attended with unknown and unheard-of concomitants; and atrocities never dreamt of or imagined before have sprung up amongst us to cover us with confusion and dismay. No one who reads the following report of the regular system of murder, which seems to have been organised in Edinburgh, can doubt that it is almost wholly without example in any age or country. Murder is no novel crime; it has been done in the olden time as well as now; but murder perpetrated in such a manner, upon such a system, with such an object or intent, and accompanied by such accessory circumstances, was never, we believe, heard of before, and, taken altogether, utterly transcends and beggars every thing in the shape of tragedy to be found in poetry or romance. Even Mrs. Radcliffe, with all

her talent for imagining and depicting the horrible, has not been able to invent or pourtray scenes at all to be compared, in point of deep tragical interest, with the dreadful realities of the den in the West Port. To show this, we shall endeavour to exhibit a faint sketch of the more prominent circumstances attending the murder of the woman Campbell or Docherty, as proved in evidence at the trial.

In the morning of a certain day in October last (the 31st) Burke chances to enter the shop of a grocer, called Rymer; and there he sees a poor beggar woman asking charity. He accosts her, and the brogue instantly reveals their common country. The poor old woman's heart warms to her countryman, and she tells him that her name is Docherty, and that she has come from Ireland in search of her son. Burke, on the other hand, improves the acquaintance, by pretending that his mother's name was also Docherty, and that he has a wondrous affection for all who bear the same euphonous and revered name. The old woman is perfectly charmed with her good fortune in meeting such a friend in such a countryman, and her heart perfectly overflows with delight. Burke, again, seeing that he has so far gained his object, follows up his professions of regard by inviting Mrs. Docherty to go with him to his house, at the same time offering her an asylum there. The poor beggar woman accepts the fatal invitation, and accompanies Burke to that dreadful den, the scene of many previous murders, whence she is destined never to return. Here the ineffable ruffian treats her to her breakfast, and as her gratitude rises, his apparent attention and kindness increase. This done, however, he goes in search of his associate and accomplice Hare, whom he informs that he has "got a *shot* in the house," and invites to come over at a certain time and hour specified "to see it done." Betwixt eleven and twelve o'clock at night is fixed upon by these execrable miscreants for destroying the unhappy victim whom Burke had previously seduced into the den of murder and death; and then Burke proceeds to make the necessary arrangements for the commission of the crime. Gray and his wife, lodgers in Burke's house, and whom the murderers did not think it proper or safe to entrust with the secret, are removed for that night alone: another bed is procured for them, and paid for, or offered to be paid for, by Burke. By and by the murderers congregate, and females, cognisant of their past deeds, as well as of the crime which was to be perpetrated, mingle with them in this horrid meeting. Spirituous liquor is procured and administered to the intended victim; they all drink more or less deeply; sounds of mirth and revelry are heard echoing from this mi-

niature pandæmonium; and a dance, in which they all, including the beggar woman, join, completes these infernal orgies. This is kept up for a considerable while, and is the immediate precursor of a deed which blurs the eye of day, and throws a deeper and darker shade around the dusky brow of night.

At length the time for "doing it" arrives. Burke and Hare got up a sham fight, to produce a noise of brawling and quarrelling, common enough in their horrid abode; and when this has been continued long enough as they think, Burke suddenly springs like a hungry tiger on his victim, whom one of his accomplices had, as if by accident, thrown down,—flings the whole weight of his body upon her breast,—grapples her by the throat,—and strangles her outright. Ten minutes or a quarter of an hour elapse while this murderous operation is going on, and ere it is completed; during the whole of which time Hare, by his own confession in the witness-box, sat upon the front of the bed, a cool spectator of the murder, without raising a cry or stretching out a hand to help the unhappy wretch thus hurried into eternity by his associate fiend Burke. As to the women (Helen M'Dougal, Burke's helpmate, and the wife of the miscreant Hare) they seem to have retreated into a passage closed in by an outer door, "when they saw him (Burke) on the top of her" (Docherty), and to have remained there while he was perpetrating the murder; without, however, uttering a single sound or doing a single act, calculated to interrupt the murderer in his work of blood, or to procure assistance to the dying victim. These she-devils were familiar with the work of death; and one of them, the wife of Hare, confessed it in the witness-box. She had seen, she said, such "tricks" before.

No language can add to the impression which these facts are calculated to produce. The succeeding events, however, are not less picturesquely horrifying. The murder was committed at eleven o'clock, and in an hour after, or at twelve, Burke fetches Paterson, the assistant or servant of a teacher of Anatomy in Edinburgh, to whom he was in the habit of selling the bodies of his victims, to the spot—the murdered body being by this time stuffed under the bed and covered with straw; and, pointing to that truly dreadful place, tells him that he has got a subject for him there, which will be ready for him in the morning. The demons then appear to have recreated themselves with fresh dozes of liquor; and about four or five in the morning, the two women already mentioned, with a fellow of the name of Broggan who had joined the party, after the deed was done,—laid down in the bed, beneath which the murdered body of Docherty, not yet cold in death, had been

crammed, and went to sleep, some of them at least, as coolly as if nothing of the kind had occurred. When daylight returned, the tea-box, so often mentioned in the course of the trial, was procured, and the slaughtered body crammed into it, and sent off by the porter M'Culloch, to Surgeons' Square; after which Burke and his accomplice Hare set off for Newington to obtain the whole or part of the price of the subject they had procured by murder, and actually got *five pounds*, being one-half of the price agreed upon.*

* The following narration has been taken down from the lips of the officer who apprehended Burke and his accomplices:—

"On Friday, the 31st of October, a little elderly woman was seen begging about the West Port: she entered the shop of Mr. Rymer, adjacent to Burke's house, for this purpose, when Burke was there purchasing whisky. He seems to have immediately fixed upon her as a fit subject for his atrocious purposes, and endeavoured to decoy her into his power. He asked her name, and what part of Ireland she came from; and upon receiving her answers, replied that he was from the same place, and that she must be a relation of his mother, whose name was Docherty. He then promised to give her breakfast, and they left the shop together, and were seen to enter Burke's house. She was afterwards seen in the house at different times during the day; and two lodgers, Gray and his wife, were sent to Hare's house to make room for her, under the pretence that she was a friend from Ireland. They were afterwards seen making merry, drinking and dancing in company with Hare and his wife, first in the house of Ann Connaway, and afterwards in Burke's. During the night, a great noise of quarrelling and cries of murder were heard in Burke's house; but the neighbours, knowing that two men and three women were in the house, and having frequently heard similar uproars, did not think much of it, nor interfere. One of them, however, had the curiosity to look through the key-hole, when he saw M'Dougal holding a bottle to the mouth of Campbell, swearing at her for not drinking, and pouring the whisky into her mouth. Then all was quiet for a little. Shortly after, the noise again commenced, which was again succeeded by silence. At this time, that is, between 11 and 12 o'clock, it is presumed the horrid deed was perpetrated.

"In the morning, M'Dougal, who passed for Burke's wife, accounted for the absence of Campbell, or 'the little old woman' as they called her, as well as for the noise, by saying that she had, during the night, made too free with her husband, Burke, and that she had kicked her out of the house: and this seems to have allayed any suspicions. In the morning, the lodgers Gray and his wife returned to Burke's; but upon Mrs. Gray attempting to search about the bed, and the straw under it for some articles she had left, she was ordered by Burke with an oath, 'to keep out from them.' Burke afterwards left the house, desiring Broggan a carter who was there to sit on a chair close to the straw until he returned. Broggan, however, followed him in a short time, and MacDougal who appeared to be in liquor, started up from the bed asking for her husband, and afterwards quitted the house, leaving Gray and his wife sitting in it. Mrs. Gray then commenced searching for her child's stockings and cleaning the house, and from the suspicions which had been excited by Burke's conduct, she examined the straw and found the murdered body, which her husband pulled out, and which they immediately recognised to be that of Campbell. On going up the stair, they were met by M'Dougal, whom Gray informed of the body being found. She af-

Such is an imperfect and feeble outline of the facts of this case, in the course of which was disclosed the horrid and appalling fact, that, in certain holes and dens, both in the heart and in the outskirts of this city, murder had been reduced into a system, with the view of obtaining money for the bodies murdered; and that it was perpetrated in the manner least likely to leave impressed upon the body any evident or decisive marks of violence, being invariably committed by means of suffocation or strangling, during partial or total intoxication. The public is therefore to consider the present as only one out of many instances of a similar nature which have occurred.

fected to pass it off as if the woman had died in consequence of a drunken frolic, and attempted to bribe them into silence by offering them the ominous sum of *ten pounds*. She invited Gray and his wife to take a dram in a neighbouring public-house, where she, along with Hare's wife, hurriedly left them, and upon their return to the house, in two or three minutes, they called the people next door to come in, as they wished to show them something; but upon examination the body was gone. They immediately lodged information at the police office, and a party of policemen were sent, but notwithstanding the most diligent search that could be made, the body could not be found, nor the parties implicated. At this time a servant girl who lived near informed them that she had seen Burke and his wife, Hare and his wife, and the porter M'Culloch, going up the stair, the porter carrying a tea-box with the top stuffed with straw; and that she laid her hand upon it and found it soft. Upon the return of the policemen, sometime afterwards, Burke came in, it is supposed to get some things previous to escaping. He was pointed out by Gray, and immediately seized. He seemed to wish to laugh it off, under the pretence that it was the lodgers who wished to do him an ill turn, saying that he defied all Scotland to charge him with any thing wrong. Mrs. Burke then came in, crying that she heard the police were after her husband about the old woman, but that it was all a drunken spree, and used a great many capers and dry laughs. She was also immediately taken into custody, and both were conveyed to the police office.

"There was still no tidings of the body, when it was suggested that the dissecting rooms should be searched; and Lieutenant Paterson and Serjeant-major Fisher went on Sunday morning for that purpose. They were informed by Paterson, Dr. Knox's man, that they had only received one body, which was shown them, but from their not having seen Campbell they could not identify it. Gray and his wife were sent for, who soon recognised it, and after procuring a warrant it was conveyed to the police office.

"Early on Sabbath morning instructions were received to apprehend Hare and his wife, and a party proceeded to his house about eight o'clock, and were informed that they were both in the house and in bed. Upon informing them that Captain Stewart wished to speak with them upon the subject of the body that had been found in Burke's, Mrs. Hare, laughing, said, that the Captain and the police had surely very little to do now to look after a drunken spree like this, repeatedly jeering and laughing. Hare then said to her that he was at Burke's and had a dram or two, and likely they might be attaching some blame to them, but he did not care for Captain Stewart, and they had better rise and see what he had to say.—They were both conveyed to the police office, and immediately lodged in separate cells."

Hare's wife admitted that she had witnessed many "tricks" of the same kind; and Hare himself, when undergoing the searching cross-examination of Mr. Cockburn—a cross-examination such as was never before exemplified in any Court of Justice—durst not deny that he had been concerned in other murders besides that of Docherty;—that a murder had been committed in his own house in the month of October last;—that he himself was a murderer, and his hands steeped in blood and slaughter: we say he durst not deny it, and only took refuge in "declining to answer" the questions put to him; which the Court of course apprised him he was entitled to do in regard to questions that went to criminate himself so deeply, and but for which caution we have little doubt that he would have confessed not merely accession, but a principal share in several murders. In fact, this "squalid wretch," as Mr. Cockburn so picturesquely called him, from the hue and look of the carrion-crow in the witness-box, was disposed to be extremely communicative, and apparently had no idea that any thing he had stated was at all remarkable or extraordinary. Daft Jamie was murdered in this miscreant's house, and he has mentioned some circumstances connected with the destruction of this poor innocent, calculated to form a suitable *pendant* to the description we have already given of the murder of Docherty. Jamie was enticed into Hare's house by Burke, the usual decoy-duck in this traffic of blood (the appearance of Hare himself being so inexpressibly hideous that it would have scared even this moping idiot,) and he was plied with liquor for a considerable time. At first he refused to imbibe a single drop; but by dint of coaxing and perseverance, they at last induced him to take a little; and after he once took a little, they found almost no difficulty in inducing him to take more. At length, however, he became overpowered, and laying himself down on the floor, fell asleep. Burke, who was anxiously watching his opportunity, then said to Hare, "Shall I do it now?" to which Hare replied, "He is too strong for you yet; you had better let him alone a while." Both the ruffians seem to have been afraid of the physical strength which they knew the poor creature possessed, and of the use he would make of it, if prematurely roused. Burke, accordingly, waited a little, but getting impatient to accomplish his object, he suddenly threw himself upon Jamie, and attempted to strangle him. This roused the poor creature, and, muddled as he was with liquor and sleep, he threw Burke off and got to his feet, when a desperate struggle ensued. Jamie fought with the united frenzy of madness and despair, and Burke was about to be overpowered, when he

called out furiously to Hare to assist him. This Hare did by tripping up Jamie's heels; after which both the ruffians got upon him, and, at length, though not even then without the greatest difficulty, succeeded in strangling him.

And all this has happened and has been carried on in a Christian country, and in the Metropolis of Scotland, without a breath of suspicion having been excited as to the existence of such hellish atrocities, till Gray lodged information at the Police Office of the murder of the woman Campbell or Docherty. It was said at the trial, that the public mind had been excited and inflamed on the subject to a degree wholly unprecedented; but how is it conceivable or possible that even the lightest whisper of such infernal deeds—of an organised system of murder—could find its way to the public, without producing this excitement, without kindling up every feeling of horror and indignation which the darkest and most unheard of atrocities could possibly rouse in virtuous and untainted minds? This was a natural result of a great and unparalleled crime, or rather system of crimes; it was a result which no power or influence could prevent; it was a result which, even if it had been possible, ought not to have been prevented. But as this excitement existed—as it had more or less pervaded every mind—and as it might eventually, if not controlled, have interfered with and affected the administration of stern justice, it was right, nay it was necessary, both for the sake of public justice and also for the satisfaction of the country, that the prisoners should be ably and powerfully defended. Under this conviction, the head of the Bar of Scotland, in conjunction with some other of its brightest ornaments, came forward to offer their gratuitous services on the occasion; and certainly never was there a defence in any case conducted with more consummate ability—never perhaps was there a trial in which higher talent, greater experience, or more splendid and overmastering eloquence were displayed. And we rejoice that such has been the case. Conduct like this reflects eternal honour on the Bar; because there are instances in which it may throw a shield around innocence; while, in every case, it is calculated to preserve the course of justice pure and undefiled, as well to give additional satisfaction to the country, to create additional confidence in the purity of the law, and to beget a stronger feeling of security in the protection which it affords. The most atrocious crimes are precisely those which ought to be most cautiously and fully investigated; where prejudice of all sorts ought to be most anxiously excluded or counteracted; where every facility in the power of the Court to give, ought

to be afforded to the prisoner, both in preparing for his defence and on his trial; where the rules of evidence ought to be most strictly adhered to, in so far as regards either the admissibility or credibility of testimony; where the accused should have the fullest benefit of every presumption in his favour; and where his defence, ought if possible, to be conducted with the greatest legal ability. Now Burke had all these advantages. The Court, in the exercise of the discretion with which it is entrusted, adjudged the trial of the prisoner to proceed upon only one of three separate acts of murder charged against him in the indictment; while the splendid array of Counsel, who voluntarily and gratuitously undertook the conduct of his defence, exerted their whole skill, talents, and eloquence, in his behalf. And we repeat that we rejoice at this; for, as was well observed by the Lord Advocate in addressing the Jury for the Crown upon the evidence which had been led, if the prisoner had any good defence, it was thus sure to have ample justice done to it; and if a conviction was obtained, it would be more satisfactory to the country, and infinitely more important to the purity and efficacy of the law.

In these circumstances, however, a conviction *has* been obtained against the panneł Burke—the prime murderer —the immediate and direct agent by whom the crime charged was committed—the agent also, we firmly believe, by whom not *three* but *thirteen* persons were slaughtered, with the intent of excambing their murdered bodies for gold; this monster, we say, *has* been convicted, and adjudged to suffer the highest punishment of the law: and, with a sort of poetical justice, he who made subjects of others, is to be made a subject himself, and he now knows that his vile carcass, when the hangman is done with it, will be subjected to the same process with the bodies of his murdered victims. The idea of hanging him in chains would have been out of all keeping with his crime; and hence, though once entertained, it was most properly and judiciously abandoned. But the conviction of Burke alone will not satisfy either the law or the country. The unanimous voice of society in regard to Hare is, *Delendus est;* that is to say, if there be evidence to convict him, as we should hope there is. He has been an accessory before or after the fact in nearly all of these murders; in the case of poor Jamie he was unquestionably a principal; and his evidence on Wednesday only protects him from being called to account for the murder of Docherty. We trust, therefore, that the Lord Advocate, who has so ably and zealously performed his duty to the country upon this occasion, will bring the "squalid wretch"

to trial, and take every other means in his power to have these atrocities probed and sifted to the bottom.

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## Trial of William Burke and Helen M'Dougal.

No trial in the memory of any man living has excited so deep, universal, and, we may almost add, appalling an interest as that of William Burke and his female associate, Helen M'Dougal, which took place on Wednesday, 24th December, 1828. By the statements which from time to time appeared in the newspapers, public feeling had been worked up to the highest pitch of excitement, and the case, in so far as the miserable pannels were concerned, to a certain extent prejudiced by the natural abhorrence which the account of a new and unparalleled crime was calculated to excite. This, however, is an evil inseparable from the freedom, activity, and enterprise of the press, which is necessarily compelled to lay hold of the events of the passing hour, more especially when these are of an extraordinary or unprecedented kind: But it was more than atoned for by many countervailing advantages of the greatest moment to the interests of the community; and, besides, we are satisfied that any prejudice or prepossession thus created, was anxiously and effectually excluded from the minds of the jury, by whom this singular case was tried, and that they were swayed by no consideration except a stern regard to the sanction of their oaths, the purity of justice, and the import of the evidence laid before them. At the same time, it was not so much to the accounts published in the newspapers, which merely embodied and gave greater currency to the statements circulating in society, as to the extraordinary, nay, unparalleled circumstances of the case, that the strong excitement of the public mind ought to be ascribed. These were without any precedent in the records of our criminal practice, and, in fact, amounted to the realization of a nursery tale. The recent deplorable increase of crime has made us familiar with several new atrocities. Poisoning is now, it seems, rendered subsidiary to the commission of theft: stabbings, and attempts at assassination, are matters of almost every day occurrence: and murder has grown so familiar to us, that it has almost ceased to be viewed with that instinctive and inexpressible dread which the commission of the greatest crime against the laws of God and society used to excite. But the present was the first instance of murder alleged to have been perpetrated with the aforethought purpose and intent of selling the murdered body as a subject for dissection to anatomists: it was a new species of assassination, or murder for hire; and as such,

no less than from the general horror felt by the people of this country at the process, from ministering to which the murderers expected their reward, it was certainly calculated to make a deep impression on the public mind, and to awaken feelings of strong and appalling interest in the issue of the trial.

Of the extent of the impression thus produced, and the feelings thus awakened, it was easy to judge from what was every where observable on Monday and Tuesday. The approaching trial formed the universal topic of conversation, and all sorts of speculations and conjectures were afloat as to the circumstances likely to be disclosed in the course of it, and the various results to which it would eventually lead. As the day drew near, the interest deepened; and it was easy to see that the common people shared strongly in the general excitement. The coming trial, they expected, was to disclose something which they had often dreamed of, or imagined, or heard recounted around an evening's fire, like a tale of horror, or a raw-head-and-bloody-bones story, but which they never, in their sober judgment, either feared or believed to be possible; and hence, they looked forward to it with corresponding but indescribable emotions. In short, all classes participated more or less in a common feeling respecting the case of this unhappy man and his associate; all expected fearful disclosures; none, we are convinced, wished for any thing but justice.

As it was morally certain that a vast crowd would be assembled early on Wednesday, arrangements were made on Tuesday, under the immediate superintendence of Mr. Sheriff Duff, for the admission of jurymen by the door which connects the Signet Library with the Outer House, and also for the accommodation of the individuals connected with the public press. One half of the Court, the narrow dimensions of which have been often complained of, and in fact were never more seriously felt, was, as usual on such occasions, reserved for the members of the Faculty and the Writers to the Signet in their gowns.

So early as seven o'clock in the morning of Wednesday, a considerable crowd had assembled in the Parliament Square, and around the doors of the Court; and numerous applications for admission were made to the different subordinate functionaries, but in vain. The regulations previously agreed upon were most rigorously observed; while a large body of police, which was in attendance, maintained the utmost order, and kept the avenues to the Court unobstructed. The individuals connected with the press were conducted to the seats provided for them a little before eight o'clock; the members of the Faculty and of the Society of Writers to the Signet were ad-

mitted precisely at nine; and thus, with the jurymen impannelled, and a few individuals who had obtained the *entrée* in virtue of orders from the Judges, the Court became at once crowded in every part.

About twenty minutes before ten o'clock, the prisoners, William Burke and Helen M'Dougal, were placed at the bar. The male prisoner, as his name indicates, is a native of Ireland. He is a man rather below the middle size, but stoutly made, and of a determined, though not peculiarly sinister expression of countenance. The contour of his countenance, as well as his features, are decidedly Milesian. His face is round, with high cheek bones, grey eyes, a good deal sunk in the head, a short snubbish nose, and a round chin, but altogether of a small cast. His hair and whiskers, which are of a light sandy colour, comport well with the make of the head, and with the complexion which is nearly of the same hue. He was dressed in a shabby blue surtout, buttoned close to the throat, a striped cotton waistcoat, and dark-coloured small clothes, and had, upon the whole, what is called in this country a *waugh* rather than a ferocious appearance; though there is a hardness about the features, mixed with an expression in the grey twinkling eyes, far from inviting. The female prisoner is fully of the middle size, but thin and spare made, though evidently of large bone. Her features are long, and by no means disagreeable,—a pair of large, full, black eyes, imparting to them even something of interest and expressiveness; but the upper half of her face is out of proportion to the lower. She was miserably dressed in a small stone-coloured silk bonnet, very much the worse for the wear, a printed cotton shawl, and a cotton gown. She stoops considerably in her gait, and has nothing peculiar in her appearance, except the ordinary look of extreme penury and misery, common to unfortunate females of the same degraded class. Both prisoners, especially Burke, entered the Court without any visible signs of perturbation, and both seemed to attend very closely to the proceedings which soon after commenced.

The Court met at precisely a quarter past ten o'clock. The Judges present were, the Right Honourable the Lord Justice Clerk, and Lords Pitmilly, Meadowbank, and Mackenzie. Their Lordships having taken their seats, and the instance having been called,

The Lord Justice Clerk said—William Burke, and Helen M'Dougal, pay attention to the indictment that is now to be read against you.

Mr. Patrick Robertson.—I object to the reading of the indictment. It contains charges which I hope to be able to show

your Lordships are incompetent, and the reading of the whole of the libel must tend materially to prejudice the prisoners at the bar.

The Lord Justice Clerk.—I am unaccustomed to this mode of procedure. It depends upon the Court whether the indictment shall be read or not.

Mr. Patrick Robertson.—Certainly, my Lord; but I understand it is not necessary to read the indictment; and we object to its being done on the present occasion.

Lord Justice Clerk.—We have found but little advantage to result from the practice recently introduced of *not* reading the indictment. It has rendered constant explanations necessary, and consumes more time the one way than the other.

Mr. Cockburn.—We object to the indictment being read, because it is calculated to prejudice the prisoner. Our statement is, that it contains charges, the reading of which cannot fail to operate against him, and that these charges make no legal part of the libel.

Lord Meadowbank.—I am against novelties; I am against interfering with the discretion of the Court.

The indictment was then read as follows:—

William Burke and Helen M'Dougal, both present prisoners in the tolbooth of Edinburgh, you are indicted and accused at the instance of Sir WILLIAM RAE of St. Catharine's, Bart. his Majesty's Advocate for his Majesty's interest: That albeit, by the laws of this and of every other well governed realm, MURDER, is a crime of an heinous nature and severely punishable: Yet true it is and of verity, that you the said William Burke and Helen M'Dougal are both and each, or one or other of you, guilty of the said crime, actor or actors, or art and part: In so far as, on one or other of the days between the 7th and 16th days of April 1828, or on one or other of the days of that month, or of March immediately preceding, or of May immediately following, within the house in Gibb's Close, Canongate, Edinburgh, then and now or lately in the occupation of Constantine Burke, then and now or lately scavenger in the employment of the Edinburgh Police Establishment, you the said William Burke did, wickedly and feloniously, place or lay your body or person, or part thereof, over or upon the breast or person and face of Mary Paterson or Mitchell, then or recently before that time, or formerly preceding, with Isabella Burnet or Worthington, then and now or lately residing in Leith Street, in or near Edinburgh, when she, the said Mary Paterson or Mitchell was lying in the said house, in a state of intoxication, did, by the pressure thereof, and by covering her

mouth and nose with your body or person, and forcibly compressing her throat with your hands, and forcibly keeping her down, notwithstanding her resistance, or in some other way to the Prosecutor unknown, preventing her from breathing, suffocate or strangle her; and the said Mary Paterson or Mitchell was thus, by the said means or part thereof, or by some other means or violence, the particulars of which are to the Prosecutor unknown, wickedly bereaved of life by you the said William Burke; and this you did with the wicked aforethought intent of disposing of, or selling the body of the said Mary Paterson or Mitchell, when so murdered, to a physician or surgeon, or some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent to the Prosecutor unknown. (2.) Further, on one or other of the days, between the 5th and 26th days of October 1828, or on one or other of the days of that month, or of September immediately preceding, or of November immediately following, within the house situated in Tanner's Close, Portsburgh, or Wester Portsburgh, in or near Edinburgh, then and now or lately in the occupation of William Haire or Hare, then and now or lately labourer, you the said William Burke did wickedly and feloniously attack and assault James Wilson, commonly called or known by the name of Daft Jamie, then or lately residing in the house of James Downie, then and now or lately porter, and then and now or lately residing in Stevenlaw's Close, High Street, Edinburgh, and did leap and throw yourself upon him, when the said James Wilson was lying in the said house, and he having sprung up, you did struggle with him, and did bring him to the ground, and you did place or lay your body or person, or part thereof, over or upon the person or body and face of the said James Wilson, and did by the pressure thereof, and by covering his mouth and nose with your person or body, and forcibly keeping him down, and compressing his mouth, nose, and throat, notwithstanding every resistance on his part, and thereby, or in some other manner to the Prosecutor unknown, preventing him from breathing, suffocate or strangle him; and the said James Wilson was thus, by the said means, or part of them, or by some other means or violence, the particulars of which are to the Prosecutor unknown, wickedly bereaved of life and murdered by you the said William Burke; and this you did with the wicked aforethought and intent of disposing of or selling the body of the said James Wilson, when so murdered, to a physician or surgeon, or to some person in the employment of a physician or

surgeon, as a subject for dissection, or with some other wicked and felonious intent or purpose, to the Prosecutor unknown. (3.) Further, on Friday the 31st day of October 1828, or on one or other of the days of that month, or of September immediately preceding, or of November immediately following, within the house then or lately occupied by you the said William Burke, situated in that street of Portsburgh, or Wester Portsburgh, in or near Edinburgh, which runs from the Grassmarket of Edinburgh to Main Point, in or near Edinburgh, and on the north side of the said street, and having an access thereto by a trance or passage, entering from the street last above libelled, and having also an entrance from a court or back court on the north thereof, the name of which is to the Prosecutor unknown, you the said William Burke and Helen M'Dougal, did both and each, or one or other of you, wickedly and feloniously place or lay your bodies or persons, or part thereof, on the body or person or part thereof of one or other of you, over or upon the person or body and face of Madgy or Margery or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, then or lately residing in the house of Roderick Stewart or Stuart, then and now or lately labourer, and then and now or lately residing in the Pleasance, in or near Edinburgh; when she, the said Madgy or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, was lying on the ground, and did, by the pressure thereof, and by covering her mouth and the rest of her face with your bodies or persons, or the body or person of one or other of you, and by grasping her by the throat, and keeping her mouth and nostrils shut, with your hands, and thereby, or in some other way to the Prosecutor unknown, preventing her from breathing, suffocate or strangle her; and the said Madgy or Margery, or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, was thus, by the said means, or part thereof, or by some other means or violence, the particulars of which are to the Prosecutor unknown, wickedly bereaved of life, and murdered by you the said William Burke, and you the said Helen M'Dougal, or one or other of you; and thus you, both and each, or one or other of you, did, with the wicked aforethought intent of disposing of or selling the body of the said Madgy or Margery or Mary M'Gonegal, or Duffie, or Campbell, or Docherty, when so murdered, to a physician or surgeon, or to some person in the employment of a physician or surgeon, as a subject for dissection, or with some other wicked and felonious intent or purpose to the Prosecutor unknown: And you, the said William Burke, having been taken before George Tait, Esq. sheriff-substitute of the shire of

Edinburgh, you did in his presence, at Edinburgh, emit and subscribe five several declarations of the dates respectively following, viz. :—The 3d, 10th, 19th, and 29th days of November, and 4th day of December 1828: And you, the said Helen M'Dougal, having been taken before the said sheriff-substitute, you did in his presence, at Edinburgh, emit two several declarations, one upon the 3d and another upon the 18th days of November 1828, which declarations were each of them respectively subscribed in your presence by the said sheriff-substitute, you having declared you could not write: which declarations being to be used in evidence against each of you by whom the same were respectively emitted; as also the skirt of a gown; as also a petticoat; as also a brass snuff-box, and a snuff-spoon, a black coat, a black waistcoat, a pair of moleskin trowsers, and a cotton handkerchief or neck-cloth, to all of which sealed labels are now attached, being to be used in evidence against you, the said William Burke; as also a coarse linen sheet, a coarse pillow-case, a dark printed cotton gown, a red-stripped cotton bed-gown, to which a sealed label is now attached; as also a wooden box; as also a plan, entitled "Plan of Houses in Wester Portsburgh and places adjacent," and bearing to be dated Edinburgh, 20th November 1828, and to be signed by James Braidwood, 22, Society, being all to be used in evidence against both and each of you, the said William Burke and Helen M'Dougal, at your trial, will for that purpose be in due time lodged in the hands of the clerk of the High Court of Justiciary, before which you are about to be tried, that you may have an opportunity of seeing the same. All which, or part thereof, being found proven by the verdict of an assize, or admitted by the respective judicial confessions of you the said William Burke and Helen M'Dougal, before the Lord Justice-General, the Lord Justice-Clerk, and the Lords Commissioners of Justiciary, you, the said William Burke and Helen M'Dougal, ought to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

A. WOOD, *A.D.*

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## LIST OF WITNESSES.

1 George Tait, Esquire, sheriff-substitute of the shire of Edinburgh.
2 Archibald Scott, procurator-fiscal of said shire.
3 Richard John Moxey, now or lately clerk in the sheriff-clerk's office, Edinburgh.

4 Archibald M'Lucas, now or lately clerk in the sheriff-clerk's office, Edinburgh.
5 Janet Brown, now or lately servant to, and residing with, Isabella Burnet or Worthington, now or lately residing in Leith Street, in or near Edinburgh.
6 The foresaid Isabella Burnet or Worthington.
7 Elizabeth Graham or Burke, wife of Constantine Burke, now or lately scavenger in the employment of the Edinburgh police, and now or lately residing in Gibb's close, Canongate, Edinburgh.
8 The foresaid Constantine Burke.
9 Jean Anderson or Sutherland, wife of George Sutherland, now or lately silversmith, and now or lately residing in Middleton's Entry, Potter-row, Edinburgh.
10 William Haire or Hare, present prisoner in the tolbooth of Edinburgh.
11 Margaret Laird or Haire or Hare, wife of the foresaid William Haire or Hare, and present prisoner in the tolbooth of Edinburgh.
12 Jean M'Donald or Coghill, wife of Daniel Coghill, now or lately shoemaker, and now or lately residing in South St. James's street, in or near Edinburgh.
13 Margaret M'Gregor, now or lately servant to, and residing with, John Clark, now or lately baker, and now or lately residing in Rose street, in or near Edinburgh.
14 Richard Burke, son of, and now or lately residing with, the foresaid Constantine Burke.
15 William Burke, son of, and now or lately residing with, the foresaid Constantine Burke.
16 Janet Wilson or Downie, wife of James Downie, now or lately porter, and now or lately residing in Stevenlaw's close, High street, Edinburgh.
17 Mary Downie, daughter of, and now or lately residing with, the foresaid James Downie.
18 William Cunningham, now or lately scavenger in the employment of the Edinburgh police, and now or lately residing in Fairley's Entry, Cowgate, Edinburgh.
19 George Barclay, now or lately tobacconist in North College street, in or near Edinburgh.
20 David Dalziell, now or lately copperplate printer, and now or lately residing with his father, George Dalziell, now or lately painter, and now or lately residing in North Fowlis' close, High street, Edinburgh.
21 Margaret Newbigging or Dalziell, wife of the foresaid David Dalziell.

22 Joseph M'Lean, now or lately tinsmith, and now or lately residing in Coul's close, Canongate, Edinburgh.
23 Andrew Farquharson, now or lately sheriff-officer in Edinburgh.
24 George M'Farlane, now or lately porter, and now or lately residing in Paterson's court, Lawnmarket, Edinburgh.
25 John Brogan, now or lately in the employment of John Vallence, now or lately carter, and now or lately residing in Semple street, near Edinburgh.
26 Janet Lawrie or Law, wife of Robert Law, now or lately currier, and now or lately residing in Portsburgh or Wester Portsburgh, in or near Edinburgh.
27 Ann Black, or Connaway, or Conway, wife of John Connaway or Conway, now or lately labourer, and now or lately residing in Portsburgh or Wester Portsburgh aforesaid.
28 The foresaid John Connaway or Conway.
29 William Noble, now or lately apprentice to David Rymer, now or lately grocer and spirit-dealer in Portsburgh or Wester Portsburgh aforesaid.
30 James Gray, now or lately labourer, and now or lately residing with Henry M'Donald, now or lately dealer in coals, and now or lately residing in the Grassmarket, Edinburgh.
31 Ann M'Dougall or Gray, wife of the foresaid James Gray.
32 Hugh Alston, now or lately grocer, and now or lately residing in Portsburgh or Wester Portsburgh aforesaid.
33 Elizabeth Paterson, daughter of, and now or lately residing with, Isabella Smith or Paterson, now or lately residing in Portsburgh or Wester Portsburgh aforesaid.
34 The foresaid Isabella Smith or Paterson.
35 John M'Culloch, now or lately porter, and now or lately residing in Alison's close, Cowgate, Edinburgh.
36 John Fisher, now or lately one of the criminal officers of the Edinburgh police establishment.
37 John Findlay, now or lately one of the patrole of the Edinburgh police establishment.
38 James Paterson, now or lately lieutenant of the Edinburgh police establishment.
39 James M'Nicoll, now or lately one of the serjeants of the Edinburgh police establishment.
40 Mary Stewart or Stuart, wife of Roderick Stewart or Stuart, now or lately labourer, and now or lately residing in the Pleasance, near Edinburgh.
41 The foresaid Roderick Stewart or Stuart.
42 Charles M'Lauchlan, now or lately shoemaker, and now

or lately residing with the foresaid Roderick Stewart or Stuart.

43 Elizabeth Main, now or lately servant to the foresaid William Haire or Hare.

44 Robert Knox, M. D. lecturer on Anatomy, now or lately residing in Newington place, near Edinburgh.

45 David Paterson, now or lately keeper of the Museum belonging to the foresaid Dr. Robert Knox, and now or lately residing in Portsburgh, or Wester Portsburgh aforesaid, with his mother, the foresaid Isabella Smith or Paterson.

46 Thomas Wharton Jones, now or lately surgeon, and now or lately residing in West Circus place, in or near Edinburgh, with his mother, Margaret Cockburn or Jones.

47 William Ferguson, now or lately surgeon, and now or lately residing in Charles street, in or near Edinburgh, with his brother, John Ferguson, now or lately writer.

48 Alexander Miller, now or lately surgeon, and now or lately residing in the lodgings of Elizabeth Anderson or Montgomery, now or lately residing in Clerk street, in or near Edinburgh.

49 Robert Christison, M. D. now or lately Professor of Medical Jurisprudence in the University of Edinburgh.

50 William Pulteny Alison, M. D. now or lately Professor of the Theory of Physic in the University of Edinburgh.

51 William Newbigging, now or lately surgeon, and now or lately residing in St. Andrew's square, Edinburgh.

52 Alexander Black, now or lately surgeon to the Edinburgh police establishment.

53 James Braidwood, now or lately builder, and master of fire-engines on the Edinburgh police establishment.

54 Alexander M'Lean, now or lately sheriff-officer in Edinburgh.

55 James Evans, student of medicine, now or lately residing with Mr. James Moir, surgeon, residing in Tiviot-row, in or near Edinburgh.

A. WOOD, *A. D.*

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DEAN OF FACULTY.—We have given in separate defences, which may as well be read now,—beginning with the defences for the male prisoner.

The defences for Burke was then read as follows:

The pannel submits that he is not bound to plead to, or to be tried upon a libel, which not only charges him with three unconnected murders, committed each at a different time,

and at a different place, but also combines his trial with that of another pannel, who is not even alleged to have had any concern with two of the offences of which he is accused. Such an accumulation of offences and pannels is contrary to the general and the better practice of the Court; it is inconsistent with right principle, and indeed, so far as the pannel can discover, is altogether unprecedented; it is totally unnecessary for the ends of public justice, and greatly distracts and prejudices the accused in their defence. It is therefore submitted that the libel is completely vitiated by this accumulation, and cannot be maintained as containing a proper criminal charge. On the merits of the case, the pannel has only to state that he is not guilty, and that he rests his defence on a denial of the facts set forth in the libel.

The defences for Helen M'Dougal were next read as follows:

If it shall be decided that the prisoner is obliged to answer to this indictment at all, her answer to it is, that she is not guilty, and that the Prosecutor cannot prove the facts on which his charge rests. But she humbly submits that she is not bound to plead to it. She is accused of one murder committed in October 1828, in a house in Portsburgh, and of no other offence. Yet she is placed in an indictment along with a different person, who is accused of other two murders, each of them committed at a different time, and at a different place, it not being alleged that she had any connection with either of these crimes. This accumulation of pannels and of offences is not necessary for public justice, and exposes the accused to intolerable prejudice, and is not warranted, so far as can be ascertained, even by a single precedent.

Mr. Patrick Robertson then addressed the Court in support of the defences. In this indictment there were two prisoners named, but these two prisoners did not appear on the face of it to have any connection with each other. The major proposition contained a simple charge of murder, without specifying any aggravation. In the minor proposition, however, there were three distinct and totally unconnected charges of murder. The first was against Burke alone, and was charged as having been committed in April last, in a house in the Canongate. But it was not stated that he had any accomplices. He was the sole person charged with that offence. It appeared, indeed, from the description of the crime, that he was charged "with the wicked, aforethought purpose and intent, of disposing of and selling the body, when murdered, as a subject for dissection, or with some other wicked and fe-

lonious purpose and intent to the Prosecutor unknown." But, while, on the one hand, there was no aggravation laid in the major proposition; yet on the other the Prosecutor did not confine himself to one species of intent, but libelled two—the intent to sell the body to the surgeons, and some other sort of vague undefined species of intent to the Prosecutor himself unknown. The second article in the indictment charged another murder, alleged to have been committed in the month of October, in a place called Tanner's Close, in Wester Portsburgh. In this charge also William Burke is the only person accused of that offence, and the intent laid is the same as in the former instance. Then there was a charge of a third murder, committed at a different place and time, viz. at a house in Portsburgh on the 31st October; in which charge both William Burke and Helen M'Dougal were included: and, after describing the offence, the intent libelled is the same as in the two former cases. Thus we had three murders charged against the prisoners; two against Burke alone, and one against Burke in conjunction with M'Dougal; all of which were committed at different times and in different places, without any connection whatever between them: and these charges were laid without any aggravation. Then five different declarations by Burke, and two by M'Dougal, were also libelled on, together with eight articles to be adduced as evidence against the former, and six against both; and in addition to all this, they were served with a list of fifty-five witnesses by whom these different and totally unconnected charges were to be proved. Now the question was, whether this charge, involving such an accumulation of unconnected offences, was consistent with our practice, with the humane principles of our law, and with that sound and proper discretion which the Court was not only entitled, but bound to exercise. But the first and most material point was, whether the prisoners would suffer prejudice by the mode in which the libel had been framed; for if that could be made out, it would justify their Lordships in the exercise of the discretion with which they were entrusted, in separating the different charges, or in selecting one prisoner, and postponing another, according to the circumstances of the case. The question then was, whether the prisoners would suffer prejudice in going to trial with the libel as it now stood. And, in considering this, it would be observed that it was not charged that there was any natural connection between the crimes committed. There was certainly none in law; and with the exception of the mode of the murder and the intent, there was not the slightest pretence for saying there was any connection between them. But the intent was not laid abso-

lutely and peremptorily. It was conditional: "Either you committed these acts with the wicked, aforethought purpose and intent of selling the bodies to the surgeons for dissection, or with some other purpose or intent to the Prosecutor unknown." This indeed would compel the Prosecutor to prove that the murder was committed for the purpose of handing over the bodies to dissection; but he might also bring in under it a very different purpose or object, as, for example, that it was done for the purpose of robbery, or to gratify private revenge. In the major proposition, however, there was no aggravation; and it was not said that there had been any conspiracy, that these murders were part of a system; they were laid as three unconnected offences, committed at different times and at different places. Now he prayed their Lordships to keep in mind that murder was not like any of the other offences which usually occurred in the practice of the Supreme Criminal Court; it was one which, in every case, when brought home to a pannel, was visited with the highest punishment of the law; and therefore it differed from all the offences to which it was sometimes likened, and required greater caution on the part of those by whom it was to be tried. As applicable to the case of Burke, however, three murders were charged; and this charge was calculated in the most serious degree to prejudice him. Each specific offence, it might be said, would require to be supported by its own specific evidence: but it was impossible to find any jury so dispassionate as not to borrow some light from the one to enable them to decide on the other; it was impossible for the jury to separate the evidence in one case from that in another; it was impossible that one murder not proved could be separated from any light thrown upon it by another not proved; nay, though neither the one nor the other might be proved, it might still be held, that upon the whole, from the massing or blending of unconnected acts, enough was made out to warrant a conviction. And all this was aggravated by the prejudice arising from the manner in which the alleged murders were said to have been committed, and in regard to which so strong a degree of excitement existed in the public mind. Then observe the oppression in the preparation of the trial; observe the situation in which the pannels were placed. Three murders were charged, with a list of fifty-five witnesses; besides seven declarations, five by the one, and two by the other. One set, it might be said, was against one prisoner, and the other against the other; but it was impossible so to separate, or to analyse the evidence as not to admit against the one evidence which was calculated to affect the other; and by thus mixing up and

massing together the whole into an unnecessary accumulation of crime, to come to the same conclusion in regard to both. Look to the case of Helen M'Dougal, and it will be seen the prejudice must operate still more strongly against her. She is accused of only one crime, and it is not said that she had any connection with the others. But this charge of murder, committed in the latter end of October, is brought to trial, combined with two others committed, one in April, six months previously, and the other in the beginning of October. Where is this to stop? If the Prosecutor is allowed to proceed in this way, may he not on the same principle combine ten murders against ten prisoners, accused of ten different offences, committed in as many different counties? He submitted that there must be some limitation; and the question was, whether the Court could sustain the present charge by which one individual, accused of one offence, is mixed up with another, accused of two, with which she is not alleged to have had any concern. Imagine this case. At the end of the indictment, eight articles were specified against Burke, and six more against Burke and M'Dougal conjointly. Take the first—the skirt of a gown—and suppose it proved against Burke alone. It could not be adduced as evidence against Helen M'Dougal. But suppose it was traced into her possession, and that a witness was called to prove that it belonged to Mary Paterson or Mitchell. This would be conclusive as to M'Dougal's connection with Burke. But it might be said that the Judge would tell the Jury to strike this out of their notes. That was an easy operation; but could they strike it out of their minds as easily as out of their notes? Then in what circumstances would Helen M'Dougal be placed? An article not libelled against her would be checkmate to her defence. She would be taken by surprise,—she would be thrown off her guard; and although the gown had come fairly and honestly into her possession she could produce no evidence to instruct the fact. He put this as an illustration. So far as the female prisoner was concerned it would be fatal.

But was this a legal proceeding? If there be a prejudice existing, the prisoner is entitled to the fairest possible defence. The more atrocious the offence, the more guarded and cautious ought to be the modes of procedure. So far, however, as they could discover from the records of the Court, this was the first case in which it had been attempted to charge three murders in the same indictment. There had been several instances of three persons slain at the same time, as in the Aberdeen riots, by a discharge of musketry, and in the case where a whole family was poisoned: these, however, as Mr. Hume

observed, were all parts of the same foul and atrocious offence. But there was no example, in the history of the Court, of combining three unconnected offences against one person; far less of combining three against one person who was not alleged to have any connection with two of them, and was only implicated in a third, which had no manner of connection with those which preceded it. Sir George Mackenzie, who would not be suspected of any partiality to the prisoner, laid down the principle most clearly, that different parties ought not to be thus combined in an indictment. "A person accused," says he, "was not obliged to answer of old but for one crime in "one day, except where there were several pursuers, *Quoniam* "*Attachiamenta, cap.* 65. by which, accumulation of crimes was "expressly unlawful, *sed hodie aliter obtinet*, for now there is "nothing more ordinar nor to see five or six persons in one "summonds or indictment; and to see one accuser pursue seve-"ral summondses; and yet seeing crimes are of so great conse-"quence to the defender, and are of so great intricacy, it ap-"pears most unreasonable that a defender should be burthened "with more than one defence at once; and it appears that ac-"cumulation of crimes is intended, either to læse the fame of "the defender, or to distract him in his defence." Title 19, § 7. Here the principle was brought out in the clearest manner —that salutary principle which says that no man ought to be called upon to answer to more than one crime in one libel; since the accumulation of crimes was calculated "either to læse "the fame of the prisoner, or to distract him in his defence." The learned Counsel then referred to the work of Mr. Baron Hume. That learned author treats of the accumulation of crimes under different heads: first, of those which are of one name and species, and of one class and general description; secondly, of those criminal acts, though of different kinds and appellations, have a natural relation and dependence; and, thirdly, of that sort of *cumulatio actionum*, which consists in the charging of *several persons* in the same libel *with separate and unconnected crimes*. The first of these, he argued, had no relation to the present case, because it did not include murder. All the cases referred to were cases of housebreaking and theft; and though the former was a capital offence, yet it was a very different one from murder. No case of the latter was indeed quoted. The author treated merely of connected crimes, as robbery and murder. But no injury was done by such accumulation. They were parts of the same foul and atrocious proceeding, and they had a natural and necessary dependence. But in the present case there was no natural dependence, and not even an allegation that the prisoners were connected.

He then proceeded to the consideration of heterogenous charges, as of murder and of theft. Some of these, he said, were not cases to be followed at the present day: and he instanced that of Walter Buchanan, who was accused of ten different crimes in one libel; namely, fire-raising, attempts at fire-raising, attempts to poison, theft, reset of theft, the harbouring, out-hounding, and maintaining of thieves and robbers, sorning and levying black mail, and killing and eating of other people's sheep. Here, however, the Lords restricted the trial to the more special charges. He now came to the principle, and mentioned a case in 1784, when the Lord Advocate did depart from several of the charges. In regard to accumulation of parties, Mr. Hume put a case of several persons being called to answer in one libel for the same fact; but then, observe the remedy. "On any occasion when they see cause, especially if "it appear that the Prosecutor meant to lay the pannels under "this disadvantage (he begged to disclaim any insinuation that "such was the intention of the Prosecutor in the present in-"stance,) the Court may and will separate the trials of the se-"veral culprits, and send those to an assize, in the first place, "by themselves, who are meant to be called as witnesses for "the others," vol. ii. p. 170. The learned Counsel then proceeded to the third sort of *cumulatio actionum*, that of charging several persons in the same libel with separate and unconnected offences, and contended very ably that the case before the Court fell under this description.

In conclusion, he referred to the English practice as illustrative of the principle for which he had been contending, and referred to a decision of Lord Ellenborough, as reported in Campbell, vol. ii. p. 131, and also to the authority of Chitty, vol. i. p. 252. By the law of England, two felonies may be combined in one charge against two separate prisoners; but it is usual for the Judge, in his discretion, to call upon the prosecutor to make his election, and to proceed with a specific charge against one individual. In point of law they may be combined, but the judges in their discretion separate them; and for this reason among others, that the combination would prejudice prisoners in their challenge of the jury.

The Lord Advocate replied at some length. After complimenting the learned counsel who had just concluded, on the able manner in which he had opened the objections submitted to the consideration of the Court, he stated that he thought them ill-founded. His learned friend mixed up two objections altogether different. His first objection was to bringing two prisoners to trial in the same indictment, and his second to charging three different crimes in that indictment. He would deal very

shortly with the first. The woman was charged as having been concerned with the man in one of the three murders. And this was sanctioned by the law of the land. He put her in the indictment that she might *not* be prejudiced. If she had been put into a separate indictment, the public would have known the whole evidence before she had been put upon her trial, and the prisoner would have had the best possible reason to complain. This would have been the case had he first brought the man to trial, and afterwards the woman, adducing against her the same, or nearly the same evidence, which had previously been adduced against the man. It was to obviate this, and to prevent her from being prejudiced, that he had put her in the same indictment. "God forbid," said his Lordship, "that any person holding the situation I do, should do any thing to prejudice a prisoner on his trial." The very contrary motive had guided him; but if he proceeded not against the woman to day, he would ten days hence, when she could not insist on that which she now says will prejudice her. Nor, in a case of this sort, would he be restrained from doing his duty to the country by any consideration founded upon what were called the interests of science. It was enough for him that a great crime had been committed; a crime unheard of before in any civilized country: that the public mind had in consequence become strongly agitated; and that the duty he owed to the country left him no alternative. He was determined therefore to probe and sift the whole matter to the bottom; nothing should deter him from doing so; and he repeated, that if he was compelled to desert the diet against this woman now, he would infallibly bring her to trial ten days hence. Then she would find whether she had been prejudiced by the whole evidence in this case having gone abroad to the world.

The libel charged three separate acts; and in the major proposition the crime specified was murder without any aggravation. These murders were detached, as having taken place within the last six months; but they were all committed in Edinburgh, and all were charged as having been perpetrated with the same intent, which however is no aggravation. Murder, indeed, could scarcely admit of aggravation. When a prosecutor libels a positive intent, he is tied down to that, and there is no alternative. These cases were all of the same description—all murders, and all committed with the same intent. He admitted, that looking to the proceedings of the Criminal Court, it might be impossible to find a case of three murders combined in one indictment; but the present was a case unprecedented in the annals of this or of any other civilized coun-

try. There were numerous examples, however, where different charges were combined in the same libel. The passage quoted from Sir George Mackenzie did not apply to the case before the Court. It referred to a case of a nature totally different. He then quoted Hume II. 166, and maintained, upon his authority, that the crimes charged being all of the same name and species, might properly be included in the same indictment. It would indeed be dreadful if a prisoner, after having committed three murders, could only be tried for one of them. Mr. Hume referred to the case of James Inglis, tried upon three charges of horse-stealing, each of which, if proved, involved a capital punishment. Now, would not every argument which had been employed against the present libel apply to such a charge? Again, two acts of highway robbery were charged in the same indictment, any one of which would have been sufficient, if proved, to lead to a capital conviction. The whole tenor of our practice, indeed, confirmed this mode of procedure, and, if the contrary obtained—if charges of the same nature and description were put in separate indictments, prisoners would be exposed to the intolerable hardship of undergoing trial day after day; a hardship which he conceived would be incomparably greater than any that could possibly arise from the practice now complained of. He then referred to the case of Nairne and Ogilvie. Here it had been objected that there was a *cumulatio actionum*, but the objection had been repelled. His Lordship then cited the case of James Morton tried at the Glasgow Circuit in 1823 on four separate acts; of Donaldson Buchanan also tried there for stouthrief, housebreaking and theft (all separate acts); of Beaumont, tried at Aberdeen in 1826, where six acts of housebreaking were charged; and of Gillespie, tried at Aberdeen in 1827, upon no less than nine separate acts of forgery. His Lordship then quoted the case of Surridge and Dempster, indicted for two separate acts of murder, committed indeed at the short interval of an hour, but still in all respects completely separate acts. Upon the strength of these consecutive authorities, all of which went to support the principle for which he contended, his Lordship submitted that the objection ought to be repelled.

The Dean of Faculty, in reply to the Lord Advocate, argued powerfully in support of the views which had been opened by Mr. Robertson. His Right Honourable and Learned Friend (the Lord Advocate) might rely upon it that, on the part of the prisoner's Counsel, no doubt whatever was entertained of the perfect propriety of the motive by which his Lordship had been actuated in framing the present indictment; they

were convinced that he had prepared and brought forward the case in the manner which he conceived least likely to prejudice the prisoners or to distract them in their defence. But, on the other hand, he could with equal truth and sincerity assure his Lordship, that the objection now raised had been taken from a firm conviction that the sustaining of it was necessary for the safety of the law, and indispensable to the ends of justice. It had been said that the decisions of the Court ought to be adhered to, that its practice ought not to be infringed upon; and yet it was admitted that the present was the first case which had ever occurred of three separate acts of murder being combined in the same indictment. In this situation, then, were they not justified in submitting to the Court the objection which had been taken upon the ground of this unprecedented combination? The Learned Lord had intimated an intention to desert the diet *pro loco et tempore* against the pannel M'Dougal. But the question still remained whether the interests of the male prisoner would not be dreadfully prejudiced in his defence, if put upon his trial for three separate acts of murder, committed at different times, and in different places. Now he contended that the present form of the indictment was adopted to effect an illegitimate object: it was calculated to lead to great injustice to the prisoner. What the Prosecutor insisted on passing to a Jury was an indictment charging three distinct murders: he averred that there were separate and unconnected acts of this crime; and he assumed that there was sufficient proof to bring them home to the prisoner. But every man, whatever the number of charges against him might be, was to be held and presumed to be innocent till the contrary was proved, and a conviction obtained against himself. There might, or there might not be sufficient proof to convict him; but he contended for the benefit of the ordinary presumption. "Give us," said the Learned Counsel, "the benefit of this presumption, to which we are entitled, and then let us see how the case will stand." In the indictment before their Lordships three murders were charged; murders committed at different times; murders of different persons, totally unconnected and living in different places; and the last of these was stated to have been done in conjunction with a third person who had no connection with the other two. But if the Public Prosecutor were in a situation to prove one of these murders, it would infer the death of the pannel. Then for what end or purpose of public justice were three murders crammed into one indictment? If the Prosecutor was unable to prove any one of them, there was no necessity surely for putting it into this indictment. Sup-

pose evidence were brought to prove the first, but totally failed, and the second, but also failed, or at least left them in such doubt that a verdict of not guilty or not proven would have been returned if they had been tried separately; nobody would maintain that a false or improbable charge might not become a make-weight in the evidence to prove a separate and distinct murder. The prisoner might take his trial on a combination of such charges, but unless your Lordship interfered *ex parte judicis*, the result would be what he described. The prejudice arose from this *talis qualis* accession, not proved, but assumed; and from the prejudice thus credited the prisoner might be convicted. They could not lay the present indictment before a Jury without necessarily prejudicing that Jury; and yet the Lord Advocate came forward and alleged that he thought the whole objection frivolous and untenable, saying that it was an attempt to smother the indictment altogether; that is, he called an objection to an indictment, which did not contain a specific allegation of a specific crime, but a congeries of offences huddled together and charged *in cumulo*, an attempt to smother it! How smothered? If the indictment was improperly framed, if two or three charges were crammed into it instead of one, the prisoner was entitled to have it smothered. He was entitled to a fair trial, and if the libel was so constructed that this could not be afforded him, he had a right to have it smothered. Every thing relative to a specific charge their Lordships would receive, if brought forward in a competent form; but the point previously adverted to still returned—Were they to receive evidence in regard to two charges which might not be proved, and which yet might affect the minds of the Jury in regard to the third and lead to a conviction? The Learned Lord indeed said, that there was only one sort of evidence, and that the crime had been committed in the same place. But the place was not the same; in fact, the *loci* were as distinct as if the one crime had been committed in the Canongate of Edinburgh and the other in the remotest corner of Scotland. In popular language and popular conceptions, they might be held and represented as the same, but this would never do in matters of law. They must have the *locus* strictly libelled. Nor was the time the same. The first was committed at the distance of six months from the second: the first took place in April, another took place in the beginning of October, and a third occurred in the end of October. Now, might not the prisoner prove an *alibi* in regard to one of these crimes though not in regard to the other? But, further, the acts were different. It was in vain to say that all the murders were of the same *genus*, for

this might be said of all the murders that ever had been or ever would be committed; and on the face of the indictment they were all different. In the major proposition no aggravation was libelled, but it was said that all these murders had been committed with the intent of disposing of the dead bodies to the Surgeons, or with some other purpose or intent to the Prosecutor unknown. Did the Learned Lord mean to say that he would fail if he did not prove this intent? But that purpose was a separate crime, as was sufficiently manifest from the late case (among others) of Bradwell at Glasgow. It could not, therefore, be maintained that he would fail by not proving the intent—by not proving a different crime from that libelled. It was perfectly plain that it was competent to prove the intent, but the not proving it could not in the least degree affect the libel. The crime consisted in the wilful murder; and unless the motive amounted to a justification, or an alleviation which reduced it to culpable homicide, the intent would be inferred from the fact, and the highest punishment of the law would follow a conviction. The evil of an indictment so framed as the present was to produce an illegitimate effect by this combination of intention or motive with the crime charged. The intent charged might have been laid as a separate offence; but had this been done we should now have been on a different objection, namely the competency of such a charge. To these principles in the abstract, no exception could be taken. Now, the Court would consider the situation in which the pannel was placed. He had been put upon his defence fifteen days after his examination; five declarations emitted by him were libelled on; and most manifestly there did exist great prejudice against him. He did not say that this would be a sufficient reason for postponing the trial, but it was a sufficient reason for the Court taking care that he suffered no injury in his defence. Another matter in which the prisoner was prejudiced, by lumping together separate charges in the same indictment, was in his challenges of the Jurymen. It was evident that the prisoner had an interest that way. He did not know who the Jurymen were to be, and of course could not mean to say that there was any danger of an improper person being balloted; but he had a clear right in the abstract—a right of which he ought not to be deprived. If he had been tried on separate indictments he would have had fifteen challenges, whereas by the combination of the charges in the same indictment he had only five. Now there might be Jurymen liable to challenge in one case and not in another, just as one witness might be perfectly unexceptionable in one case and liable to the most serious

and fatal objections in another. He contended, therefore, that in every view the principle was in their favour, as well as the justice and imperious necessity of the case.

The Learned Gentleman then referred to the authorities. He began by commenting on the passage which had been quoted from Sir George Mackenzie; which, he contended, the Lord Advocate had misunderstood, as it was quite evident, that George Mackenzie used the word "summonds" as synonymous with "indictment," since an "accumulation of crimes," the subject treated of, could not be predicated of a summons in the common acceptation of that term. And the doctrine laid down by this author was that an "accumulation of crimes is intended, either to læse the fame of the defender, or to distract him in his defence." Now what did the Lord Advocate say in answer to this? He referred to a passage in Mr. Baron Hume's work where that learned person says, that "the competency has never been disputed of charging in one libel any number of criminal acts, if they are all of one nature and species, or even of one class and general description." But it was evident that the offences of which Mr. Hume spoke were of a different description from murder; for he expressly added the qualification, "so as to adhere in this point of view, and stamp a character on the pannel as one who is an habitual and irreclaimable offender in this sort," (vol. ii. p. 166.) And accordingly the instances which he gave were of the crimes of theft and house-breaking; crimes which were susceptible of being aggravated by habit and repute; and of which the punishment might be restricted. But murder admitted of no such aggravation, and never was restricted. Hear, however, what Mr. Hume said in reference to those cases: "The Court, whenever they find that the immediate trial of such manifold changes is likely to prove oppressive, either to the witnesses, the Jury, or themselves; *and still more, if they see cause to believe that it may embarrass the pannel in his defence, or beget prejudices against him in the minds of the Jury;*—in any of these cases, they have it certainly in their power to divide or parcel out the libel, and proceed in the first instance to the trial of as many of the articles as may fitly be dispatched in a single diet, &c." (vol. ii. p. 168.) The cases which occurred in 1696 might, however, be referred to in support of a contrary doctrine; but "if they are, I answer" said the Learned Counsel—"Are your Lordships prepared to do what was done in those cases? Are they to rule your Lordships' decision in a case without any precedent whatsoever?" But even these did not bear on the present case; and none adverse to the principle had occurred since the year 1784.

Even the case of 1784 itself was not opposed to the principle. *There*, there was connection. The case of Surridge and Dempster was mentioned as a case of two murders, as a case where more than one murder was charged in the indictment; but these were clearly *partes ejusdem negotii;* they were committed in immediate sequence and in furtherance of the same "foul and atrocious design." It was quite plain, therefore, that the cases quoted did not apply; that they had no bearing whatever on the present case, where three different and unconnected murders were charged against the same individual, and where another party was mixed up with him in one of the alleged crimes. Were they not entitled, then, to ask their Lordships, in the exercise of a sound discretion, (which it was not denied the Court possessed) "to divide and parcel out" the charges in this indictment, and to find it incompetent to go to trial upon it as it presently stood? The Learned Counsel then adverted to the state of the law of England on this subject, commenting on the passage quoted by Mr. Robertson from the work of Chitty, and concluded by observing that this was in all respects a most serious case, and deserved the utmost attention of the Court. No instance of three murders charged in one indictment had happened in his time; many instances had indeed occurred in former times; yet it had never been the practice to try the charges *in cumulo*. But the more anomalous and unprecedented the case, the more necessary was it to the ends of justice, and the more important to the law, that it should be proceeded in with the utmost caution.

Their Lordships then delivered their opinions on the objection which had been raised and so ably argued by the prisoner's Counsel.

Lord Pitmilly.—The Court were peculiarly circumstanced in being called upon to give an opinion on an indictment in a case, part of which must unquestionably go to trial. He was quite clear that one of the charges must undergo an investigation; that the trial to that extent must proceed. But Counsel were by no means precluded from stating the objection they had brought forward, and which, appearing to them in the light it did, it became their duty to press upon the attention of the Court. This accordingly they had done with equal zeal and ability, in a manner which did honour to themselves, and reflected credit on the Bar of Scotland. But it was the duty of the Court to be calm and guarded; to express their opinions in a dignified and dispassionate manner; and to avoid any thing which was either calculated to unsettle the established principles of that

law or to form a bad precedent for the future. He agreed that there were two different questions before the Court; the first of which was, whether Helen M'Dougal ought to have been included in the indictment. And on that point he had no doubt of the Prosecutor's right so to include her. He approved of what the Lord Advocate had done, and he had no hesitation in saying, that the trial should now proceed. The other question was of a very different nature; namely, whether it was competent, and also whether it was proper and fitting, that Burke should now go to trial upon an indictment, charging three murders, or should be tried on one or other of these charges. Of the competency he had no doubt whatever. His Lordship was much struck with the indictment when he first saw it, and he felt it to be his duty, as it is always the duty of the Court on such occasions, to inform his mind in regard to the principle on which it had been framed. He went to the authorities on the subject, and after a careful examination of them he had no doubt of the competency. When he looked at the cases of Beaumont and Gillespie, particularly the latter, where nine separate acts of forgery were charged, he could not have the smallest doubt as to the competency of including these several charges in the same indictment. Our practice on this point was too firmly fixed to admit of any question, that one individual may be charged with several crimes of the same nature, and committed at different times. The English cases referred to he put altogether out of view, because this was not a new point, now raised for the first time, and to be settled by a reference to principle or analogy, but a matter fixed by our own practice, and not again to be brought into dispute. He was therefore quite clear as to the competeney. But where it was a question of discretion merely, and where that discretion, as in the present case, was strongly appealed to, the Court would interfere, because it was their bounden and sacred duty to prevent a prisoner from suffering prejudice in his defence. The present prisoners, by their highly respectable Counsel, declared that they would suffer prejudice if they were put upon their trial on all the charges, and it was not for the Court to say whether that might or might not be the case. Three consecutive trials might or might not be beneficial to the prisoner. In his opinion they were more advantageous to the Prosecutor. By this means he learned how to conduct his case; and if he saw a link awanting in one trial, he might endeavour, by means of additional evidence, to supply it in the next. It did appear to him, therefore, that what the pannels asked for by the

mouths of their counsel, was calculated to do them more prejudice than submitting to go to trial upon the indictment as it now stood. But they had doubtless been well and judiciously advised, and were prepared to take the consequences. He held, however, that the Prosecutor had done right in including both of them in the same indictment; and that by doing so he had taken the only and most effectual means in his power not to prejudice them either in preparing for their defence or on their trial. He well remembered a case in which the danger, disadvantage, and odium attending consecutive trials were strikingly exemplified. It happened in consequence of the Aberdeen riots, and the parties were brought to trial at the instance of a private prosecutor. His Lordship was counsel for the pannels, and they were acquitted. Not satisfied with this, however, the private prosecutor reared up a new indictment upon new grounds. And he could never forget the feeling which was excited, by this attempt to bring the parties acquitted to a second trial, in the Court, the Bar, and the country at large; there was one general cry of indignation against a proceeding so shameless and oppressive; the consequence of which was, that the private prosecutor became alarmed, and the attempt was quashed. This was the natural course of things. And, in general, it was lenity, and humanity, and justice, to include all such cases in the same indictment. In the present instance, no result such as that which took place in Aberdeen was to be feared. But the Court being clearly vested with a discretion, and the pannels having strongly appealed to that discretion, it was his opinion that the cases should be tried separately.

Lord Meadowbank entirely concurred in the views of Lord Pitmilly. The nature of this case and the impression it had produced upon the public were such, that it required the most careful and anxious consideration; but he was confident that the more thoroughly their Lordships were convinced of the existing state of excitement in the public mind concerning it, the greater would be their anxiety that the prisoners suffered no prejudice on their trial or in their defence. The question here was one of very great and general importance. But if it had been entertained on the question of competency, it would have shaken the whole system of our criminal procedure. Our practice of accumulating a number of charges in the same indictment had been steady and uniform. With respect to the earlier cases referred to, particularly that in 1696, he must say that he could not for his soul comprehend upon what grounds the counsel for the prisoner had at-

tempted to invalidate their authority. The particular case referred to occurred *after* the Revolution, when the Judges were as great and eminent lawyers as ever sat in that Court. But in order to show the uniformity of the practice, he needed not go farther back than the case of Murdiston and Miller, where several acts, committed by different individuals in different counties, were put into the same indictment; yet not one iota of an objection was urged against the proceeding similar to what they had heard to-day. Our own practice, in cases of forgery, which was a capital crime, left no doubt upon the matter. Several acts of this description of crime were constantly charged in the same indictment.—In cases of robbery, it was not competent to libel aggravation. The Prosecutor was not admitted to libel habit and repute. That was now settled law. It had not been so formerly; and accordingly, when he had the honour to fill the same situation, which his learned friend (the Lord Advocate) now held, he had directed an indictment to be raised to try the point,—and the law was now settled. But it was competent to accumulate several acts in the same indictment, and to have it tried by the same evidence and before the same Jury. It was competent where there was several acts of robbery charged against different individuals; and there was one case of a father and a daughter, where the daughter was charged with two acts, and the father with all the three libelled. He was therefore of opinion that the Lord Advocate had done right in proceeding as he did. But the Court had a discretion; and to that discretion the prisoners had appealed. But having stated his opinion of that discretion, he deemed it right to say, that the Court was not answerable for the consequences. The prisoners had exercised *their* discretion, and he warned them to consider well the step they had taken. As to the Court they were bound to sit there and try the cases one after another.

Lord Mackenzie also agreed with his learned brothers as to the competency. In so far as discretion was concerned he likewise concurred, upon the statement made by the pannel and his counsel that he would suffer prejudice. He saw that the pannel was well and ably advised; and he could not take it upon him to allege that there was any thing absurd or unreasonable in the request which had been made.

Lord Justice Clerk.—The only question here was as to the competency of the charge against Burke: for the Lord Advocate had intimated his intention not to proceed at present against the woman. After listening attentively to all that had been said, after considering the authorities, and recollecting some-

thing of the practice of this Court, he thought the indictment framed in a legal and proper manner. Burke was not accused of one crime, but of three different acts of the same crime; and, therefore, he did not come within the reach of those cases referred to by Mr. Hume. If this indictment was a bad one, the Court had been guilty of a great dereliction of its duty in sustaining many indictments framed upon precisely the same principle. He recollected a case of several acts of robbery, a capital crime, and one of the four pleas of the Crown, included in the same indictment; and how could they distinguish between such a charge and that of murder, which was another of the pleas of the Crown? In fact, it was not now in the power of the Court to depart from the practice which had been so firmly established and so steadily followed. The Court, however, had a discretion, and where it was appealed to they would exercise it. The Court had even found an indictment irrelevant where it was strongly alleged by the pannel that he would suffer prejudice were he tried upon it in its actual shape.—Upon the responsibility of the respectable Counsel, who had stated that the present prisoners would suffer prejudice if they were tried upon the indictment before them as it now stood, he was of opinion that the Court should interpose in virtue of its discretion. But they ought to do so upon principle. They ought to find the libel relevant, and also to find it competent to proceed to the trial of the charges *seriatim*, leaving it to the option of the Prosecutor to say which of them he might choose to begin with.

This accordingly became the judgment of the Court. The objection was repelled, but in respect of the allegation that the pannel would suffer prejudice were he tried upon the indictment as it stood, find it competent to proceed with only one of the charges at a time, leaving it to the Lord Advocate to say which of them he thinks proper to begin with.

The Lord Advocate.—In consequence of the opinion of the Court I shall proceed with the last charge, which includes both the man and the woman. The objection in regard to the latter has now been completely removed.

The Dean of Faculty.—I beg to remind the learned Lord of his former statement, that he would desert the diet against the woman.

The Lord Advocate.—The case is now completely changed. My former statement was made upon the supposition that the trial as to Burke was to proceed upon all the three charges at once.

The Prisoners on being asked by the Lord Justice Clerk, if they were guilty or not guilty of the crimes charged in the third article of the Indictment, each answered "Not guilty." The following Jury were then chosen.

Nichol Allan, Manager of the Hercules Insurance Company, Edinburgh.
John Paton, Builder, do.
James Trench, Builder, do.
Peter M'Gregor, Merchant, do.
William Bonar, Banker, do.
James Banks, Agent, Leith Walk.
James Melliss, Merchant, Edinburgh.
John M'Fie, Merchant, Leith.
Thomas Barker, Brewer, do.
Henry Fenwick, Grocer, Dunbar.
David Brash, Grocer, Leith.
David Hunter, Ironmonger, Edinburgh.
Robert Jeffrey, Engraver, do.
William Bell, Grocer, Dunbar.
William Robertson, Cooper, Edinburgh.

*First Witness* called for the prosecution, was JAMES BRAIDWOOD, of the Fire Office Establishment, who being duly sworn.

Question. Was that plan made by you? A. It was

Q. What plan is it? A. It is a plan of some houses in the West Port, to which I was conducted by an officer.

Q. Is the plan a correct one of the under ground houses? A. It is.

MARY STEWART *Examined.*

Q. Do you remember a person of the name of Campbell, coming to live at your house during last harvest? A. Yes, Sir, Michael Campbell.

Q. How long is it since he left your house? A. On the Monday before the fast day.

Q. Do you remember a woman coming to your house to enquire after him? A. Yes, Sir.

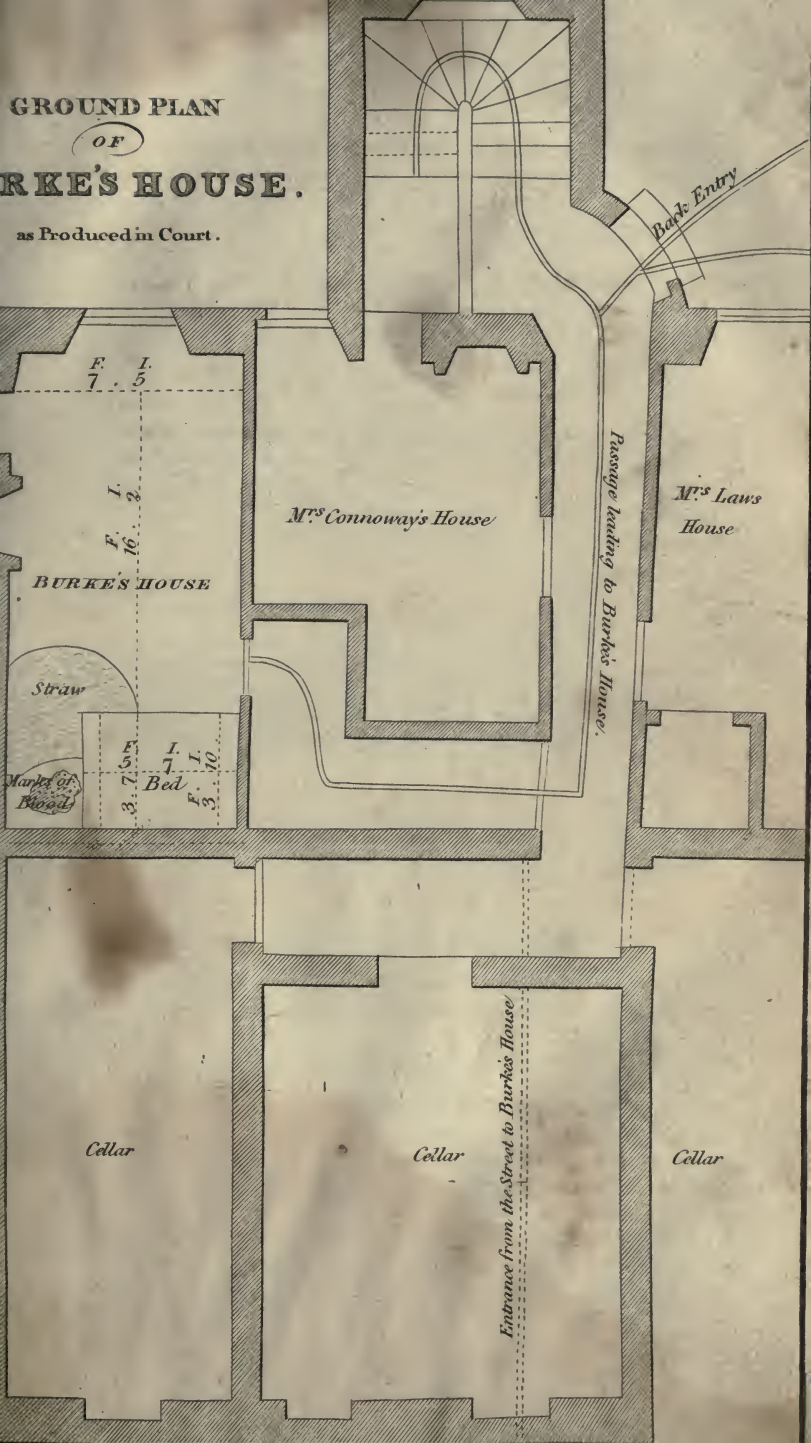
Q. By what name did she call herself? A. She called herself Madgy Campbell, and also Duffie, which she said was the name of her former husband.

Q. She came from Glasgow? A. Yes, Sir.

Q. Did she state she came in search of her son? A. Yes.

# GROUND PLAN
OF
# RKE'S HOUSE.

as Produced in Court.



Q. What time did she leave your house? A. I came out of the Infirmary on Thursday, and she left me on Friday, the 31st October.

Q. Did she tell you where she was going? A. She said she was going to search for her son.

Q. Do you know a person of the name of Charles M'Lauchlan?

A. Yes, Sir; he slept with the woman's son.

Q. Have you ever seen that woman since? A. Not till I saw her at the Police Office.

Q. What hour did she leave your house? A. I think between 7 and 8 o'clock in the morning.

Q. Do you remember when you saw the woman's body at the Police Office? A. Yes, sir; it was on Sunday, two days after.

Q. Could you recognize the body? A. Yes, Sir.

Q. What dress did she leave your house in? A. In an old dark printed gown, much patched, short sleeves, open before, sewed with white thread in the back; black bombazet petticoat, and red striped short gown.

Q. Would you know these things? A. Yes, Sir.

[These articles were shown to witness, and she identified the old printed gown, and short dress.]

By the Court.—Q. Do you know what her age might be?

A. Between forty and fifty.

By Counsel.—Q. What size was she? A. She was a little broad set woman.

By the Court.—Q. When she stopt in your house, was she in good health? A. Yes, my Lord.

Q. Did you ever see her drunk? A. No, my Lord.

## CHARLES M'LAUCHLAN *Examined.*

Q. In the month of October last, did you reside in the house of Mrs Stewart in the Pleasance? A. Yes, Sir; along with one Michael Campbell.

Q. What time did he leave that house? A. About the end of October.

Q. Do you remember a woman coming to the house in October? A. Yes, Sir.

Q. When she came did Michael Campbell live at the house? A. Yes, Sir.

Q. What name did the woman go by? A. Mrs Campbell's name was Marjory M'Gonegal; Duffie was her second husband's name.

Q. Had you ever seen her before? A. Yes, Sir; at home, in the County Donegal in Ireland.

Q. Did she remain some days at Stewart's? A. Yes, Sir.

Q. What time did she leave? A. She went away on Friday the 31st October, between the hours of nine and ten in the morning.

Q. Did you go with her? A. Yes, Sir, as far as my own shop door at the foot of St Mary's Wynd, where she shook hands with me. I asked her where she was going, and she told me she was leaving town.

Q. Did she appear in good health and sober? A. Yes, Sir, she appeared to be of sober habits.

Q. Did she come in search of her son? A. Yes, Sir.

Q. Do you know if she had any money? A. No.

Q. Did she complain of having none? A. I never heard her.

Q. Did she pay any thing for her lodgings at Stewart's? A. Her son paid for them.

Q. Did she breakfast at Stewart's that morning? A. No, Sir.

Q. Did you ever see her again in life? A. No, Sir.

Q. When did you see the body? A. I saw it at the Police office, on Sunday the 2d November.

Q. You knew it to be that of the woman Campbell?

A. Yes, Sir.

Q. Did she ever call herself Docherty? A. No, Sir.

## WILLIAM NOBLE *Examined.*

Q. You are a shop-boy at Mr Rymer's, at Portsburgh?

A. Yes, Sir.

Q. Do you know the prisoner Burke by sight? A. Yes, Sir.

Q. Do you know a man of the name of Hare? A. Yes.

Q. What do you sell? A. Groceries.

Q. Do you recollect a body found in the West Port? A. I recollect a woman came to the door, and asked charity, on Friday 31st October. Q. Was Burke in the shop at the time? A. He was.

Q. Tell us what passed between Burke and the woman who asked charity? A. He asked her name, and she said it was Docherty.

Q. What did he say to that? A. He said she was a relation of his mother's.

Q. Did Burke say what his mother's name was? A. No.

Q. Did Burke and the woman seem acquainted? A. Don't recollect. Q. What happened after that? A. Burke took her away with him, and said, he would give her her breakfast. This was on the Friday morning.

Q. When did you see Burke after? A. He came back on Saturday, and bought a box.

Q. What sort of a box was it? A. A tea-box

He was shewn a tea chest, and asked, if that was it? A. Could not say. It was like it.

Q. Have your tea boxes any particular mark? A. No.

Q. Did Burke pay for the box? A. No, it is not paid for yet.

Q. Whom did he send for it? A. Mrs Hare came for it about half an hour after Burke left our shop, and got it away.

## ANNE BLACK or CONNAWAY *Examined.*

Q. You live in Wester Portsburgh? A. Yes.

Q. What does your house consist of? A. One room.

Q. You go down a stair to it? A. Yes, Sir.

Q. And going down the stair you come to a passage? A. Yes.

Q. Is there another door in the same side of the passage, a little farther in? A. Yes.

Q. Does that door lead into a room or a passage first? A. First into a passage.

Q. And at the end of that passage there is a room? A. Yes, Sir.

Q. Who lived in that room in October last? A. It was Burke; he occupied it in the last week of October.

Q. Look at the female prisoner. Did she live with Burke in the last week of October? A. Yes, Sir.

On the other side of the passage there is another house in which lived Mrs Law.

Q. Did you ever see a person of the name of Hare coming to Burke? A. Yes, Sir.

Q. Were there any lodgers lived with the Burkes in October? A. Yes, a man of the name of Gray.

Q. Did you, on the 31st of October, see Burke? A. Yes.

Q. What time of the day? A. I made no remarks.

Q. Did you, see any one with him? A. About midday I saw him with a woman; I was sitting by the fire, and they both passed my door.

Q. Was it the prisoner? A. No.

Q. Were they going in? A. Yes.

Q. Was she a stranger? A. Yes.

Q. Was there any one in the house with you at the time?

A. Yes, Mrs Law.

Q. Did you in the course of the day go into Burke's? A. Yes.

Q. Did you go in alone? A. Yes.

Q. Did you find any one there? A. Yes, the said woman was sitting by the fire.

Q. Was she doing any thing? A. Supping porridge and milk

Q. How was she dressed? A. She had no gown on, she said her things were washing. I saw nothing but her shift, and something tied on her head.

Q. Did you see any stranger there? A. No.

Q. Was Burke's wife there? A. Yes.

Q. Was Burke? A. I dont know. You have got a stranger, I said. Yes, said M'Dougal, we have got a friend of my husband's here, a Highland woman.

Q. Was the strange woman sober? A. I dont know.

Q. Did you hear her speak at that time? A. No.—I then went back in the dark.

Q. What happened after you went into your own house?

A. Burke's wife came and asked me to take care of her door until she returned, as she was going out; my husband was sitting by the fire, and after she went away, he said he thought he saw some person going into Burke's house. We took a light and went to see, but saw nobody, save the stranger.

Q. What did you do after this? A. I said, I thought some one had come in. She rose and followed after me, and appeared the worse of drink at the time. She said she was going to St Mary's Wynd to see a boy, to hear about her son, and she wanted the name of the land of houses, that she might return, as she said she had no money to pay for her bed. I told her she need not go for she would not find her way back again. She said Burke, whom she called Docherty, had promised her supper and a bed that night. I told her if she went out the Policemen would take her as she was bad in drink.

Q. Did she go out? A. No, she did not, she came into our house and spoke a good while with my husband about Ireland and the army, in which he had been.

Q. Did you ask how Burke and she had become acquainted?

A. No, but she said she intended to stop for a fortnight. I told her, her landlord's name was Burke and not Docherty, but she insisted it was Docherty, for that was the name he gave himself to her.

Q. What name did she call herself to you? A. She called herself Docherty in her own name, and Campbell as her husband's.

Q. Did any other persons come to your house shortly after?

A. Yes, Hare and his wife; Hare's wife had a bottle with her, and he insisted they should have a dram. The prisoner M'Dougal came in also and had a share.

Q. Did you drink any? A. Yes, and my husband treated them.

Q. Did the stranger get any drink? A. Yes.

Q. Were they merry in your house. A. Yes, Hare was dan-

cing on the floor, so were Mrs. Campbell and Mrs. Burke; Campbell was barefooted, and got a scratch on the foot with the nails in Hare's shoes, of which she complained, but she was otherwise very well.

Q. Did they leave your house together? A. No, Mrs. Campbell said she would not go till Docherty, meaning Burke, came in. I insisted on her going, but she bade me not be cruel to a stranger. Shortly after, I told her there was Docherty now, and she rose and followed him.

Q. At what hour was this? A. I think it was between 10 and 11 at night. She went towards Burke's house.

Q. Did you sleep that night? A. No, what disturbed me, was Burke and Hare quarrelling. They appeared to be fighting.

Q. At what hour did you get up in the morning? A. I got up between three and four, but went to bed again, and got up altogether about eight o'clock.

Q. Whom did you see first? A. I heard Hare's wife in the passage calling to Mrs. Law, who was then in our house, but she did not answer.

Q. Did any other person come to your door? A. Yes, a girl afterwards came inquiring for John, who witness understood was Burke; it was between eight and nine.

Q. Did you direct her to Burke? A. Yes.

Q. Did you see Mrs. M'Dougal? A. Yes, shortly after she came and told me William (Burke) was wanting me. I went to Burke's and found Mrs. Law, M'Dougal, and a lad named Broggan. Burke had a bottle of spirits and gave me a glass, he then threw the spirits up towards the roof of the house, and upon the bed at his back. I asked him why he wasted it, and he laughed and said, he wanted it finished to get another bottle. I then asked Mrs. M'Dougal what was become of the old woman. She said she kicked her out of the house, as she saw Burke and her too *friendly*.

Q. Did Burke say anything at this time? A. No.

Q. Did you ask him what the noise was about? A. Yes, he said it was a fit of drink, but they were all well then.

Q. Did you do anything more? A. No, Sir.

Q. Did you see any straw lying near the bed? A. Yes, there was a bundle of straw near the bed, which had lain there almost all the summer.

Q. When you got up at the first time in the morning, between three and four, was all quiet in Burke's house? A. Yes, while I made my husband's breakfast at that hour, I heard no noise.

Q. Did any other thing particular happen in Burke's that morning? A. Yes, his wife sung a song.

Q. At what hour did you return to your own house? A. It would be the forenoon.

Q. Did you go again to Burke's on Saturday night?

A. Yes, at eight o'clock, Gray's wife told me of something in Burke's house, and I went with her to see.

Q. What did you see? A. I saw nothing, I was so frightened that I came out.

Q. Did you see the prisoner, M'Dougal? A. Before this M'Dougal came to me, and said the woman Gray had stolen some things out of her house, and asked me to watch her door, as it did not lock. This was about six o'clock.

Q. What happened after? A. When I was making my husband's supper, Hare came to my door. He was going to Burke's, but I told him there was nobody there; and he came into my house, but soon went back into the passage. I afterwards went to Burke's door, and found it fastened.

Q. After you went to Burke's door, did you see any one? A. Yes, Hare came out of Burke's after that.

Q. Did you see M'Dougal? A. Yes, and Burke a good bit on in the night.

Q. Did any thing else happen? A. Yes, some one said to Burke and M'Dougal, that they were very much disturbed the night *they murdered* the woman. M'Dougal laughed, and Burke said, he would defy all Scotland, as he never did any wrong. The police came just after that and apprehended Burke.

*Cross-Examined by Sir J. W. Moncrieff, Dean of Faculty.*

Q. Did Burke, before he was apprehended, say anything of the person who accused him of the murder?

A. Yes, he said he would go and seek the man, and he met him in the passage along with the policeman, and they took him into his own house.

*By a Juryman.*

Q. What was the cause of your fear, when you went into Burke's house?

A. From having heard of the murder from Mrs. Gray.

JANET LAWRIE (or Law) *Examined.*

Q. You lived in the same passage with the prisoners in October last? A. Yes.

Q. Do you remember being at Connaway's house on the 31st October, about two in the afternoon? A. Yes.

Q. Do you recollect seeing the prisoner Burke in the passage? A. Yes.

Q. Was he alone? A. A little woman was following him, they went into Burke's house.

Q. Did you see Hare that evening? A. Yes.

Q. Did he go into Burke's house? A. Yes.

Q. Did you go in there? A. Yes.

Q. Whom did you see? A. I saw Hare and his wife and Burke, and the little woman.

Q. At that time were they merry? A. Yes.

Q. You were not long there? A. About twenty minutes.

Q. Did you get any spirits? A. Yes.

Q. At what hour did you go to bed? A. About half past nine; sometime after I heard a noise of dancing and merriment.

Q. Did you hear any singing? A. No, Sir.

Q. Fighting and scuffling? A. There was a great noise.

Q. Did you distinguish any particular voice? A. No.

Q. Did the noise last long? A. Yes. The next morning Mrs. Burke came into my house to borrow a pair of bellows, and asked me if I heard Burke and Hare fighting in the night time.

Q. Any more about the fighting? A. I asked her then what she had done with the little woman? She said, she kicked her out of the door, because she had been using too much freedom with William, (meaning Burke.)

Q. Did she go after that? A. Yes, that was about eight. She afterwards returned about nine to borrow a dram glass, and asked me to come into her house.

Q. Did you go? A. Yes, and saw Hare there and Burke and M'Dougal; and a man of the name of Broggan.

Q. Did Gray and his wife come in before you left?

A. Yes, and Mrs. Connaway.

Q. Did you remark any thing particular? A. Yes, Burke took a bottle of spirits, and sprinkled it about the bed and room; he said, because none of them would drink it.

Q. Was there a good deal of straw lying at the foot of the bed? A. Yes. This took place on the Saturday morning, and Burke was apprehended that night.

Q. Did you see Mrs. Connaway at Burke's house? A. Yes.

Q. Did you go to the Police Office on Sunday? A. Yes, and was shown the body of the little woman I saw at Burke's on Friday night.

*Cross-Examined.*

Q. Was the straw that was near the bed there before?

A. Yes.

Q. Was it in use? A. Yes, it had been used for some time as a bed for Gray and his wife.

## HUGH ALSTON *Examined.*

Q. Do you live in the same land with Burke? A. Yes. I live in the flat above the shop, and he lives in the flat below the shop.

A. Did you hear any noise on the night of the 31st October when going home? A. Yes, I heard some going along the passage between eleven and twelve that night.

Q. Tell us what you heard? A. I heard two men quarrelling; but what particularly attracted my attention was, the cry of murder from a woman. I went down a part of the stair towards Burke's house.

Q. Do you know Connaway's door? A. Yes.

Q. Did you go so far as that? A. Yes.

Q. Now tell us distinctly as far as you can what you heard? A. I heard two men quarrelling, and a woman crying murder, but not in such a way as would lead me to think she was in danger. She continued to do so for a few minutes; then something gave three cries as if it was strangled.

Q. Did it resemble the sound of a person or animal that was strangled? A. Yes.

Q. What did you hear after this? A. I heard no noise on the floor, only speaking loud. After these remarkable sounds, I heard the female voice who cried murder, strike her hand as if against the door and call for the police, they were murdering her. I went immediately for the police, and could not get one. I returned and went down the stair a little way.

Q. Did you hear any thing after? A. Nothing but the voices of the two men which appeared at a great distance.

Q. While you were listening, did you hear feet moving on the floor? A. Yes.

Q. How far might you be from Burke's door when you heard those remarkable sounds? A. About three yards, or ten or fifteen feet.

Q. Was the outer door shut? A. I think it was, and that on the same door the woman struck her hands.

Q. When did you hear a body had been found? A. On Saturday evening, and that fixed my recollection of what I heard before.

*Cross-Examined.*

Q. You said you went in search of the Police? A. Yes.

Q. How far did you go? A. Only to the mouth of the passage. When I returned I did not consider it necessary to interfere farther.

Q. Was the voice you heard of murder the same you heard when you first went down?

A. Yes, it was like the voice that said, for God's sake go for the police, there is murder here. I since sent a person to strike on the *inner door* to see if it sounded the same as I heard before, and I think it did not.

*Re-examined.*

Q. Was the last cry for the Police? A. Yes, and that there was murder there.

*By the Jury.*

Q. Have you any doubts the cry of murder you heard in the passage came from Burke's house? A. I have no doubt of it.

ELIZABETH PATERSON *Examined.*

Q. Look at the prisoner, do you know him by sight?

A. Yes, I do.

Q. Did you see him on Friday, 31st October? A. Yes, he came to my mother's house on Friday night to ask for my brother David, and I said he was out. He then went away.

Q. Did you go on the next morning to Burke's house?

A. Yes, my brother sent me for Burke, and I went and inquired for his house at Mrs. Law's.

DAVID PATERSON *Examined.*

Q. Where do you live? A. At No. 26, West Port.

Q. What is your occupation? A. I am keeper of the museum of Doctor Knox.

Q. Do you know the prisoner? A. Yes.

Q. At what hour did you go home on the 31st October?

A. About twelve.

Q. Did you find any person at your door? A. Yes, the prisoner; he told me he wanted me to go to his house.

Q. Did you go? A. Yes.

Q. Did you find people there? A. I found Burke and another man and two women.

Q. After you went in, what passed? A. The prisoner told me he had procured something for the Doctor, pointing to the head of the bed, where there was some straw; he said it in an under voice. I was near him at the time.

Q. Was any thing shewn to you at that time? A. Nothing.

Q. What did you understand he meant? A. I understood him to mean a dead body, a subject.

Q. What were his exact words? A. His words were—"There is something for the doctor (pointing to the straw) which will be ready to-morrow morning."

Q. Was there sufficient straw to cover the body?

A. There was.

Q. Was that woman, the prisoner at the bar, there, (pointing to Mrs. M'Dougal?) A. She was.

Q. Would you know the other two persons who were present? A. Yes.

Hare and his wife being brought in,

Q. Do you know these people? A. I know them by the name of Hare, they are the other persons that were at Burke's house that night.

Q. Had you any further conversation with Burke while you remained there? A. No, but I sent my sister for him in the morning, and he came alone about nine o'clock.

Q. What did you say to him when he called on you?

A. I told him if he had any thing for Dr. Knox, to go to himself, and agree with him personally. I afterwards saw the prisoner Burke and Hare in Dr. Knox's Rooms in Surgeons' Square, along with Doctor Jones, one of Dr. Knox's assistants. This was between twelve and two.

Q. Did any thing pass there? A. Either Burke or Hare told Dr. Knox they had a dead body for him, which they would deliver there that night; and I had orders from Dr. Knox to be in the way to receive it, or any parcel that might come. I was there about seven, when Burke and Hare, and a porter named M'Culloch, brought a tea chest. They carried it in, and it was put in a cellar (Mr. Jones was present,) and when it was locked up, I went to Newington to Dr. Knox, and told him the parcel was delivered. Hare, Burke and the porter had either gone before or followed. I saw them when I came out of Dr. Knox's house. He gave me five pounds to give the men, with orders to divide it between them; and in order to do so, I took them to a public house, and got change, and gave each two pounds ten shillings. They left something for the porter. It was understood they were to return on Monday, by which time, if Dr. Knox approved of the subject, they would get the remainder of the price, which I believe, was eight pounds.

Q. Did you hear the prisoner say any thing about women? A. Yes.

Q. Did you see any women loitering about? A. No.

Q. What happened after? A. The next morning, Sunday, Lieutenant Paterson and Sergeant Fisher of the Police came to me, and I went to Dr. Knox's cellar along with them, and gave them the package which was left there the night before.

Q. Was it still roped? A. Yes; as it had been received.

Q. Did you assist at the opening of it? A. Yes, and found it to contain the body of an elderly female apparently fresh and never interred. The body was doubled up in the box, all the extremities doubled on the chest or thorax for want of room.

Q. Describe the state when it came out of the box? A. I examined all the body externally, stretched on a table. The face had a very livid colour, there was blood flowing from the mouth. The appearance indicated evident marks of strangulation, or suffocation from pressure. I found no external marks on the body that might have caused death.

By the Court.—Q. Did the eyes project? A. No.

Q. Was the tongue hanging out? A. No.

Q. Was there any marks about the throat? A. No.

Q. Was there any injury about the lips and nose? A. Yes, they were dark-coloured, and marked with blood.

## JOHN BROGGAN *Examined.*

Was at Burke's the morning after the murder. Saw Burke spill spirits about the room, and detailed several indecent speeches of Mrs. Burke, about the way she got a shot of the old woman. He was desired by Burke to remain, but did not.

## Mrs. GRAY *Examined.*

Q. Do you know the prisoners Burke and M'Dougal? A. Yes.

Q. You lodged in their house at the end of October? A. Yes.

Q. You saw a strange woman there? A. Yes.

Q. What had she on? A. A dark printed gown, and a pink bedgown over it.

[Witness was shown the clothes and identified them.]

Q. You saw the little woman there once or twice on Friday? A. Yes.

Q. Did Burke say how he met her? A. He said he met her in a shop at nine or ten that morning.

Q. Did you remain at Burke's house that night? A. No; Burke told me I should leave the house for that night, as my husband and I were quarrelling; and if I would go he would pay my lodgings, and he said I was to go to William Hare's. I went away with Hare's own wife, and returned about nine o'clock for some things of my child's. Hare and Burke were dancing and Mrs. Docherty was singing to them. In the course of the day Mrs. Docherty wanted to go out, but Mrs. Burke would not let her.

Q. At what time did you return to Hare's? A. Almost immediately.

Q. Did Hare and his wife come home? A. Yes; and Mrs. Burke came to supper; after that they all went out together, and the Hares did not return that night. The first thing in the morning that occurred, was Burke coming to my husband to give him a dram. Then went to Burke's house and saw there a number of people, but not the old woman. I asked where she was, and was told Mrs. Burke had turned her out as she was drunk.

Q. When you went to the house did you go back for any thing? A. Yes, for a pair of my child's stockings. When looking for them, Burke told me "to keep out from there;" that is, from the straw. There was whisky then used. Burke threw it about, and said he wanted to get quit of it to get more. Burke then ordered me to put on some potatoes; and I went to reach under the bed for some, when Burke told me to come out of that, I might set the bed a-fire with my pipe.

Q. Was Broggan there? A. Yes, during the day, and Burke desired he would sit there, on the chair next the straw, until he, Burke, came back again.

Q. Did Broggan remain? A. No; he only stopped a few minutes.

Q. Did Burke bid you clean the house? A. No; but I said it would be better to wash the floor, and put a little sand on it.

Q. What did you do after Broggan went out? A. I went to look for Burke, but I could not find him. I went out again and met him at the West Bow, he went to take a dram.

Q. Did you discover a dead body in that house after Broggan went out? A. Yes.

Q. Where did you find it? A. Under the straw at the foot of the bed.

Q. Why did you go back? A. Because my suspicions were raised at seeing Burke throw the spirits about, and I was determined to see what it meant. The first thing I seized hold of, was the woman's right arm. My husband took her up by the hair of the head, the body was naked, and there was blood on the nose and mouth. My husband went away before me; he met Mrs. Burke on the stair and told her what he had seen, and asked her about the body. She told him to hold his tongue, and it might be worth ten pounds a-week to him.

Q. Did you say any thing to Mrs. Burke? A. Yes; I spoke to her about the body, and told her, that was the woman who was well, singing on the floor; and she bade me hold my tongue, and she would give me five or six shillings. She repeated the words again, and said, if my husband would be quiet, it would be worth

Ten Pounds a week to him. I said that I would not wish to be worth money got for dead people.

Q. Did your husband give information after that to the police? A. Yes.

Q. You saw the body there? A. Yes.

Q. Was it the same? A. Yes.

Q. Did you return with Mrs. Connaway to Burke's? A. No; I sent her in, but did not go myself.

Cross-Examined by Sir James Moncrieff.

Q. Did you sleep in Burke's house on Thursday night?

A. Yes, on the bed of straw.

Q. Did you continue there all the forenoon of Friday?

A. Yes, I never went out but for a stoup-full of water.

Q. What time did you go to Hare's? A. About dark.

Q. Did any one ask you to come back to Burke's that night? A. No, I thought as it was Halloween night they did not wish to have me amongst them.

Q. Who went with you to Burke's at the time you say you went for your child's clothes? A. My husband. It was about nine o'clock, we did not stop many minutes.

Q. Were they all making merry? A. Yes, they were dancing and singing.

Q. Do you remember was Mrs. Connaway there? A. No.

Q. You went away in a few minutes? A. Yes.

Q. You say that Hare afterwards came home, with Mrs. Hare and M'Dougal? A. It was before I went back for the clothes and not after.

Q. Did they ask you to come and have some sport with them? A. No; next morning Burke came, and went out to give my husband a dram, and he told us to come down to breakfast, and we did.

Q. When you went down to breakfast, did you see Hare or his wife then? A. No.

Q. Are you sure? A. Quite sure, she came home before I went to breakfast. I did not get up until eight o'clock.

Q. Did M'Dougal say any thing to your husband or yourself about the body when it was found? Did she say, My God I cannot help it? A. Yes, I recollect now, she did.

Q. Did these words follow her offer of the ten pounds a week? A. Yes.

By the COURT.

Am I to understand she said, "My God, I cannot help it," after you said you did not wish to make money by dead people? A. Yes. [Here she recapitulated her evidence in a very distinct manner.]

Q. Did the woman make no reply, when you said the woman was dead, whom you saw well and singing the night before? A. No.

Q. What did you say after? A. I said, if she could not help it, she ought not to remain in the house.

Q. Were these words, "My God, I cannot help it," used after M'Dougal had spoken to your husband of ten pounds a week, and he had refused to be silent? A. Yes, it was after the offer of money; and I said, did she mean to bring a family to disgrace, that prisoner replied, "My God, how can I help it."

JAMES GRAY, Labourer, Husband of the foregoing Witness, *Examined.*

Q. You lodged at the prisoner's house? A. Yes, for a few nights at the end of last October.

Q. Do you remember Burke having any conversation with you about sleeping out of his house on the 31st of that month? A. Yes, Burke said we must go out that night, that he had provided a place for us, and that we might come back in the morning to breakfast.

Q. Did he give any reason for desiring you to leave his house that night? A. No, not that I recollect. He took us to Hare's, and pitched on a bed he used to occupy himself.

Q. Did you know that Burke brought in a strange woman that morning before, and ordered breakfast for her? A. Yes. He said, he suspected she was some relation of his mother's, as she had the same name, and was from near the same place.

Q. Did you return the night you left Burke's? A. Yes, about nine, with my wife, where we saw a good number of people at Burke's; we stopped a few minutes. Next morning Burke came, and my wife and I went down to breakfast.

Q. In the course of that Saturday, was you present when your wife found a dead body? A. Yes, it was covered with straw, and lying near the head of the bed.

Q. Was it the woman you saw there the night before? A. Yes. I then packed up my things that were there, and was

on the point of taking them to a house opposite, when I me Mrs. Burke, I asked her, what was the meaning of that thing I saw in her room. She asked what; I said, I suppose you know, the body. She then fell upon her knees and supplicated me, offered me five or six shillings, and said, if I held my tongue, it might be worth ten pounds a week to me. I said, my conscience would not allow it.

Q. Did she say the same thing to your wife? A. Very near.

Q. Did she say she could not help it? A. She did.

Q. After this conversation, did your wife and you leave it?

A. Yes. Mrs. Burke followed us up to the street. We met Mrs. Hare; she asked us what we were quarrelling about, and desired us to go into a house and settle our dispute. We did go, and shortly after I went straight to the Police.

By the COURT.

Q. When you saw the body, did you know it to be the woman who was there the night before? A. Yes; it was quite naked. There was blood upon the mouth.

*Cross-Examined.*

Q. What hour was it when you left Burke's house first, on the evening of the 31st? A. About five in the evening.

Q. What hour did Burke come for you in the morning? A. I think about seven.

Q. Was Burke in Hare's at supper? A. No; but Mrs. Burke was. The Hares had left before Burke came.

GEORGE M'CULLOCH *Examined.*

Q. You are a porter? A. Yes.

Q. Did the prisoner Burke come to you to carry a parcel for him at the end of October last? A. Yes. Q. Where did you go first? A. To Burke's house. We went into his room, where we got a box like a tea-box; he took something in a sheet, and put it into the box. Q. Was it like the shape of a human body? A. I think it was. Q. Had you no doubt it was a body? A. No. Q. Did you assist? A. No; but when the body was putting in there was some hair which I pushed in. Q. When the body was putting in the box was there violence used? A. Yes. Was there another man there? A. Yes, of the name of Hare.

Q. What became of the sheet? A. It was left where the body was carried to. *(The witness was shown a box.)*

Q. Was that the box? A. The very box.

Q. Was the hair long? A. No.

Q. Did you carry the box? A. Yes.

Q. Did the prisoner follow you? A. Yes. He told me to go towards the High School Wynd.

Q. Did you go? A. Yes.

Q. Did any person join you? A. Yes, the prisoner and his wife, and Hare and his wife.

Q. Then you went to Surgeons' Square? A. Yes, and took the box off my back. Q. What hour was it? A. It was half-past six.

Q. Where did you go after? A. To Newington.

Q. Who went with you? A. The prisoner, Hare, and their wives.

Q. Did they separate from their husbands? A. Yes.

Q. You saw a person of the name of Paterson?

A. Yes. We went into a public-house, and he shared the money between the prisoner and Hare, and gave me five shillings for my trouble. When we came out the women were gone.

## JOHN FISHER, *Examined.*

Q. You are a police officer? A. Yes.

Q. Do you remember a person coming to the office? A. Yes.

Q. Where did you go with him? A. To William Burke's.

Q. What did you go there for? A. To make inquiries, as I heard the body was removed; I met Burke and M'Dougal on the stair, I bade them come down, I wished to speak with them. I asked Burke what had become of his lodgers? He said, There is one (pointing to Gray) and that he turned them out for their bad conduct. I then asked what became of the little woman that was there on Friday? he said she left at seven in the morning. I asked him if any person saw her go away? he said, William Hare. I asked if any one else saw her go? he then looked insolent, and said, Many saw her go. I saw marks of blood on the bed, and asked how they came there. M'Dougal said a woman had lain in there a fortnight ago. She said she knew where to find the little woman, she lived in the Pleasance. She saw her that night at the Vennel, and she apologized for her bad conduct. I asked her what time she left, and she said at seven o'clock at night. I then decided

on taking them to the office, which I did, on a pretext that it was all a matter of spite against them, and if they would come to the police office, it would be all cleared up.

Q. Did you return to Burke's house that night? A. Yes, with the Superintendant and Dr. Black.

Q. Did you examine the house? A. Yes.

Q. You found a striped bed-gown on the bed. A. Yes.

Q. Was that it?—*(The bed-gown was exhibited.)* A. Yes.

Q. Did you find any blood? A. Yes, amongst the straw.

Q. Did it appear to have been long there? A. No.

Q. Next morning you went to Dr. Knox's with Paterson? A. Yes.

Q. And what did you find?

A. The body of an old woman quite naked. We sent for Gray to see if he knew the body, and he identified it. We afterwards returned in the day and removed the body to the police-office.

Q. Was the body shown to the prisoners? A. Yes.

Q. They denied all knowledge of having seen it, dead or alive? A. Yes.

Q. Did you go to Burke's house again? A. Yes, and found an old gown and a bag?

Q. Were these the articles? *(They were exhibited.)* A. Yes.

Q. Was the body after examined? A. Yes, by Dr. Black, Dr. Christison, and Dr. Newbigging.

*Cross-Examined.*

Q. Did Hare deny all knowledge of the bodies? A. Yes.

Q. And his wife? A. Yes.

## WILLIAM HARE (or HAIRE) *Examined.*

WILLIAM HARE (or HAIRE) a *socius criminis*, was now brought forward, and his entrance into the witness's box produced a great sensation in the Court. He was first sworn according to the form used in Scotland, and warned in the most pointed manner to speak the truth, for if he was found to deviate the least from it, the most condign punishment would await him.

Q. You are a Roman Catholic? A. Yes.

Q. Would you wish to be sworn in any other way? A. I never took an oath before, I believe it is all one way.

*(He was then sworn upon a New Testament, with his right hand on the Cross.)*

Q. How long have you been in this country? A. Ten years.

Q. How long have you been acquainted with the prisoners? A. About twelve months.

Q. Is your house near Burke's? A. Yes.

Q. You remember last Halloween? A. Yes.

Q. Were you drinking in a public-house with Burke? A. Yes.

Q. What did he say? A. He asked me to go down to his house to see what a *shot* he had got for the Doctors. He said he got an old woman off the street, and she would make a good *shot* for the Doctors. He told me to go down to the house and see if they were drinking, for he did not like to go.

Q. What did you understand by a shot for the Doctors?

A. That he was going to murder her.

Q. Did you go down? A. Yes, I found a man and a woman and Nelly M'Dougal, and the old woman washing her short-gown.

Q. Was the strange man's name Gray? A. Yes.

Q. What colour was the short-gown? A. Reddish striped.

Q. Is that it? *(The gown was exhibited.)* A. Yes.

Q. Did you remain long there? A. Five minutes, and then went home.

Q. Was you in Connaway's after that? A. Yes, between eight and nine o'clock.

Q. Who was at Connaway's? A. There was William Burke and Broggan, and another chap I did not know, and my wife, John Connaway, and Nelly M'Dougal. The little old woman was left at Connaway's, where they had some drink.

Q. Had you some? A. Yes, we then went to Burke's, and Burke and his wife and the old woman came in; we were all hearty.

Q. Did you then expect the old woman was to be murdered? A. No.

Q. You had a quarrel with Burke? A. Yes, he struck me on the mouth, and I struck him again, the woman came between us, he pushed me on the bed twice and I remained on the bed; the old woman got up and wished Burke to sit down, as he treated her well; she said she did not wish to see him ill used; she run out before this to the passage and cried out either murder or police.

Q. How was she brought back again? A. It was Nelly M'Dougal that brought her back both times.

Q. When you were struggling, did you knock the old woman down? A. Yes, and she lay on her back, so drunk she could not get up, she cried to Burke to quit.

Q. Did he quit you? A. Yes.

Q. What did he do then? A. He got on the old woman with his breast on her head, and kept in her breath, she gave a kind of cry and moaned a little after the first cry.

Q. How did he apply his hands to her? A. He put one hand on her nose and the other under her chin, and stopped her breath, he continued this for ten or fifteen minutes.

Q. Did he say any thing while this was going on?

A. No, he then got up and put his hand across her mouth and kept it there three or four minutes; she appeared quite dead then.

Q. Was you looking on all this while? A. I was sitting on the chair.

Q. Did he strip the body? A. Yes, and put the clothes under the bed, he then doubled up the body, and put the straw on top of her near the head of the bed.

Q. While you were sitting on the chair and he was murdering, where was your wife and M'Dougal? A. When they heard the first screech they leaped out of bed and run into the passage, and did not come in until the body was put away.

Q. Where were you? A. I was sitting at the head of the bed when they both lay down and covered themselves with the quilt.

Q. Did you see any blood at that time? A. No.

Q. Did any body come to the door when the woman cried in the passage? A. No.

Q. Before the women sprung up was Burke long on the woman? A. A minute or two.

Q. Did any one go to Burke to try and save the woman?

A. No one.

Q. Who went out first? A. My wife.

Q. And M'Dougal followed after? A. Yes.

Q. Could any one have prevented Burke without your seeing them? A. No.

Q. Did the women make any inquiries when they came into the room? A. No, they both went to bed. Then Burke went out after the woman was laid aside, and stopped out ten minutes.

Q. Did any body come back with him? A. Yes, the Doctor's man, Paterson.

Q. Did Burke say any thing to the Doctor's man?

A. Yes, he wanted him to look at the body. Paterson said it would do very well, to put it in a box; he would not look at it. I don't know when Paterson went away, I fell asleep.

Q. Were you tipsy? A. I knew what I was about.

Q. What time did you awake? A. Between six and seven in the morning. I was sleeping on the chair, with my head on the bed; the two women and John Broggan were in bed; he lay next his aunt, Nelly M'Dougal. Burke was sitting at the fire. After this I went home, and found Gray and his wife at my house; they had had a bed there that night.

Q. Did Burke come to your house the next morning?

A. He did. We went to get our morning; he asked me to go to Surgeons' Square to get a box.

Q. Did you get a box there? A No. Burke then said he had one bespoke from Mr. Rymer's shop boy. We got a box, and the porter brought it in. Burke was not in then. We left the box, and stopped at the back door until Burke came. When he came he asked me what I was doing, that I did not get it into the box. He then went in, and drew the body from under the bed, and the porter helped to put it in; there was some hair hanging out, and the porter put it in, and said, it was bad to let it hang out. The porter then carried it away to Surgeons' Square. It was roped. (That box in Court is it, or like it.) I went with the porter, and Burke went for the Doctor's man. They came to Surgeons' Square, and we went in with the box. We put the box in a cellar, and then we went to Newington to the Doctor. Mr. Paterson went in, and he afterwards came out and asked if we would go to a public-house, he had money for us. We saw our wives following us, but they did not come into the house. Paterson gave the porter 5s. and each of us L.2, 7s. 6d. We were to have five pounds more on Monday. I saw nothing very particular until I was taken up.

Cross-examined by Mr. Cockburn.

Q. You say you have been ten years in Edinburgh? A. Yes.

Q. How have you been engaged?

A. I have been a labourer, and sometimes employed in selling fish with a cart and horse.

Q. Have you been engaged in supplying bodies to the Doctors? A. Yes.

Q. Have you been concerned in supplying the Doctors with subjects on other occasions than that you have mentioned?

The Lord Advocate objected to the question.

Mr. Cockburn.—I hold that I am entitled to test this *Gentleman's* credibility with the Jury, and with that view I shall endeavour to make him confess such acts as will make his evidence go for nothing. I purpose to ask him if he was concerned in any other *murder* except this one.

Lord Advocate thought the Dean of Faculty had agreed to confine himself to this case.

Lord Meadowbank thought that such a line of conduct could not be pursued. The question was neither a fit nor proper one.

Mr. Cockburn.—In general, evidence is adduced because it is entitled or presumed to be entitled to credit. Now, it is monstrous to suppose that I should not be allowed to shake the credit of a human being in respect to his evidence. (He then quoted a case lately tried in England, where a witness in a similar circumstance was examined and acknowledged that he had been guilty of the most atrocious crimes; in consequence of which his evidence was totally discredited.)

Mr. Alison replied, the law of England was in no point more opposed to the law of Scotland than in regard to evidence. A witness here could not be called on to answer for his whole life and conversation. The utmost license was allowed in England in cross-examination, but it is contrary to the uniform and fundamental law of Scotland.

Dean of Faculty.—I completely agree with my Learned Friend. Our object is to discredit, not to disqualify the witness. We wish to propose a question to try the veracity of this witness. The witness was warned that he was standing on his oath, being peculiarly situated, but it may happen in most cases that he will answer it, and answer falsely. If he answers truly, it will be for his credit; if falsely, it will then be for the benefit of my client.

Lord Meadowbank.—I regret having stated the impression made upon my mind by the bare announcement of the question proposed to be put to the witness, because I should most assuredly have rather, in a matter of this vast importance, have desired to obtain every light that could have been thrown upon it before I ventured to deliver my judgment regarding it. But perhaps my having done so had only the effect of my attention being more anxiously called to every word that dropt from my brethren at the bar, and if I were satisfied that if any thing that was suggested by them had the effect of shaking the opinion which occurred to me at first, nothing that I stated before could have prevented my honestly and frankly avowing it. I have,

however, been confirmed in that opinion by finding that notwithstanding all the ingenuity of my learned brethren, they have said so little on the subject, and that they have been unable to show one single precedent in favour of their argument, except that which has been obtained from the law of England. Now, I for one throw the law of England altogether out of the question. It is, I believe, in matters of this kind diametrically opposite to ours. That law holds, that a witness has no protection from having been examined by the Public Prosecutor, on a criminal trial. We hold, that he has. It is quite absurd, therefore, to dream of drawing a precedent, which is to guide your Lordships, from the law of England. But even our law goes no farther than to protect witnesses from being subject to prosecution on account of matter immediately connected with the subject of the trial in the course of which they are examined. I understand it, therefore, to be admitted that, if the question proposed were admitted by your Lordships, the witness must be told that he is not bound to answer it, because it is beyond the competency of this Court to afford protection against being afterwards questioned for the perpetration of crimes which do not form the proper subject of inquiry in the present investigation. But I have always understood that the law of Scotland has gone a great deal further—that it allows no question to be put which a witness may not competently answer, and which, if answered, must not be sent to the Jury as a matter of evidence. Now, in the first place, I admit that it is quite competent for the prisoner to put any question relative to the matters at issue by which he apprehends that the credibility of the witnesses for the Crown, may, if answered, by possibility be shaken. The oath taken by the witness, binds him to speak the truth, and the whole truth; but that obligation goes no further than it refers to the matter before the Court. It neither does, nor has it ever been held, to bind him to speak to matters relative to which he has not been called legally to give evidence. I apprehend, therefore, that even the oath which has been imposed upon the witness, is not obligatory upon him to speak to matters *not immediately* connected with the subject of this trial—and, in fact, such was the opinion of the Counsel for the prisoners; for, upon their application, the witness was particularly warned that he was only required to speak the truth, and the whole truth, relative to the third charge in this indictment. I have always understood, however, that no question could be put, upon cross-examination, to a witness in this country, which would, if answered, have the effect of ren-

dering him in truth inadmissible. All questions having that effect must be put as preliminary, and after the questions put to all witnesses by your Lordships before the examination commences. In that respect, very likely, we differ from the law of England; but, for the reasons assigned by Mr. Hume in the passages read by Mr. Alison, I am not inclined to think that the rules of our law are inferior, or less effectual for the administration of justice. The object of our law has always been to get at the truth; and I suspect that is best to be obtained by preventing witnesses being harassed in the way that would result from such questions as the present being held to be admissible. But further still, suppose, in the second place, that the witness answers the question that has been put in the affirmative, and depones that he has been present at more murders than the one in question, what is to be the result? Is the Lord Advocate upon the re-examination to ask him at what murders he has been present, and who was concerned in those murders; or to go into an examination of all the matters connected with those cases? If he is, we may be involved in an inquiry into the circumstances connected with the other murders in this indictment, which are not now the subject of trial, and which your Lordships, by your interlocutor, have precluded from being the subject of trial. I cannot think that such can be your Lordships' intention: yet the Court must be prepared either to go this length or not, before allowing a question to be put which must open up such a field of inquiry, for if the prisoner is entitled to put the one question, it must follow that the prosecutor is entitled to put the other, and if you do permit such an inquiry, you must be prepared to send the answers so given, and the evidence so arising, to the jury for their consideration. And what would be the consequence? By the evidence thence arising, and the suspicions thence created, the prisoners might be convicted upon matters not at issue in this indictment. Nor is it enough to say that this has been occasioned by the prisoner himself; for the law of this country interposes to protect a prisoner from his own mistakes—it lays down rules by which, in all cases, protection shall be afforded against either accident or error; and as I conceive it would be highly erroneous to send such matters to a jury, and yet that we are entitled to permit no questions to be put, the answers to which must not be sent to the jury, I think, this question cannot be admitted. But I set out with saying, that I do not think any question can be sustained by your Lordships, which, if answered in the affirmative, would disqualify a witness. Thus,

suppose that the question put were, Have you committed ten acts of perjury—and the answer were in the affirmative, what is to be the result?—Your Lordship must tell the jury either that the witness's answer is true, or that it is false. If true, must it not also be added that he cannot be believed upon his oath; and if it appears not to be true, then he is equally incredible. By admitting such questions, therefore, the necessary result is that you put it in the power of the witness to disqualify himself; and that, I have invariably understood, I can solemnly assure your Lordships, to have been a principle reprobated by the law of this country.

The Lord Justice Clerk thought that the question might be put, but that the witness should be cautioned that he was not bound to criminate himself, for if he answered the question the Court could not protect him.

Lord Mackenzie thought the question might be put. The witness being warned that he is not bound to criminate himself, and told that he has no protection from the Court, but for the crime now before it. The admission of his having been guilty of a secret crime could not disqualify him. He had yet seen no sufficient authorities to shake that opinion.

The Lord Justice Clerk agreed with Lord Mackenzie, although he thought with Lord Meadowbank that it was the "most extraordinary question he ever heard;" but the case being an extraordinary one, allowance must be made.

The Lord Advocate wished to know in what situation he was placed. Was he allowed to ask him, if he confessed—"Of what murders were you guilty?"

Mr. Cockburn.—We put that question, and the Lord Advocate is entitled to put what other he chooses. I cannot state the thing more generally. We intend to object to no question the Lord Advocate may choose to ask.

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*Hare recalled.*

Q. You mentioned when you was last here, that you assisted in taking the bodies to Surgeons' Square?

A. I never was concerned in furnishing *none*, but I saw them do it.

Lord Justice Clerk.—You are not bound to answer the question about to be put.

Mr. Cockburn.—I am going to put some questions to you, and you need not answer them if you don't choose.

Q. How often have you carried dead bodies? A. I won't answer it.

Q. Have you ever been concerned in any other murder?

A. I won't answer that.

Q. Was there a murder committed in your house on the 8th October last? A. I won't answer that.

Q. When Burke said he had got a shot for the Doctors, how did you know what he meant by a shot?

A. I heard it often before.

Q. Did you know it meant murder, then? A. Yes.

Q. How did you know it?

A. He told me he would murder her.

Q. Had you any notion that mischief would happen that night you were dancing? A. I could not say.

Q. When did you suspect there was going to be mischief?

A. When I saw him on the top of her.

Q. Did you see the body of the woman at the Police Office?

A. Yes.

Q. Did you deny there ever having seen the body before?

A. I denied it.

Q. How soon was it after her death you saw her at the Police Office? A. I saw a body there on Saturday or Sunday.

Q. You have been acquainted with Burke long? A. Yes.

Q. Have you received any money before from Dr. Knox?

A. No.

Q. Did you ever receive any from his assistants?

A. Burke did, and he gave it me.

Q. Did you ever receive any? A. No.

Q. Who received the money? A. Burke.

Q. Are you positive that it was five pounds that was to be received on Monday? A. Yes.

Q. Who was it paid the man? A. I believe Burke did.

Q. Burke paid you? A. Yes, he threw two pounds to me, and seven shillings in silver. Paterson put two pounds in one parcel, and two in another, and halved the silver and Burke shoved it over to me.

Q. Had you ever any quarrel with Burke about money? A. No.

Q. You told us that the old woman went out into the passage and cried, Police and Murder? A. Yes.

Q. You say you shoved her down over a stool? A. Yes.

Q. And she lay on her back? A. Yes.

Q. At the time that Burke was on the top of the woman, did you hear her screech? A. Yes.

Q. It could be heard a good bit off? A. Yes.

Q. You say that Broggan was in bed in the morning,—did you see him come in? A. No.

Q. Did you sit in that chair and see Burke for ten minutes killing the woman, and offer her no assistance? A. Yes.

Q. You sat by calmly and saw the murder done? A. Yes.

Q. Did you give any information the next day? A. No.

Q. But you went to dispose of the body, and received money for it? A. Yes.

Q. And the next day you denied all knowledge of the body? A. Yes.

## MRS. HAIRE or HARE *Examined.*

*This witness was sworn and solemnly admonished by* LORD MEADOWBANK *to speak the truth, after which she was examined by the* LORD ADVOCATE.

Q. You are the wife of William Hare that was here just now? A. Yes.

Q. Do you remember last Halloween night? A. Yes.

Q. Did two persons sleep in your house that night?

A. Yes.

Q. Why did they do so? A. Burke asked me to give them a bed there in the course of the day.

Q. Did you go out that night in search of your husband?

A. Yes, I found him in John Connaway's.

Q. Who was there at the same time? A. Connaway and his wife.

Q. Was Burke there? A. I don't recollect.

Q. Had you spirits there? A. Yes.

Q. Do you recollect seeing an old woman there? A. Not that I recollect. I stopped there until my husband rose, and then we went into Burke's house with M'Dougal.

Q. Was Burke there? A. No. He came in soon after.

Q. Was the old woman there? A. Yes, she was there before.

Q. Was there a fight there between Burke and your husband? A. Yes.

Q. Did you go between them? A. Yes.

Q. Did the old woman cry murder? A. Yes.

Q. Did she get a push? A. Yes.

Q. You saw Burke on the top of the old woman? A. Yes.

Q. Did you see him long there? A. No; for M'Dougal and I ran out of the room into the passage, and stopped there upwards of a quarter of an hour.

Q. When you returned, did you see the old woman?

A. No.

Q. Did you ask after her? A. No. I had my suspicion.

Q. What, that she was murdered? A. Yes.

Q. Did you two lie down in the bed? A. Not immediately.

Q. Where were you when Burke was lying on the old wo-

man? A. I thought, before, I was in the bed, but I think now I was between the door and the bed.

Q. How many minutes was he on her? A. Not many.

Q. Where was M'Dougal? A. I don't exactly know.

Q. Which went first out at the door? A. It was I.

Q. Were you both alarmed? A. Yes, Sir.

Q. You say you suspected what was doing? A. Yes, Sir.

Q. Had you any previous reason of suspicion of the act about to be committed on the old woman?

A. I had seen a little trick of it done before. I suspected when I saw him lying on her, and Nelly M'Dougal told me something.

Q. Just tell us what she said?

A. She came to our house, and said there was a shot in the house; and I asked her what she was, and she said, Burke fetched her in out of a shop.

Q. How did you know it was a woman? A. She told me.

Q. Did she say they intended to make away with the woman?

A. No. But I understood from the word *shot* they were to do it.

Q. Why did you understand that?

A. Because I heard that word made use of before to express the determination of murdering others.

Q. Were they pressing drink on the woman? A. Yes.

Q. Was she much the worse of it? A. Rather.

Q. You remained there all night? A. Yes, until 5 o'clock. I was lying in bed when Mr. Paterson came in, but I did not hear what he said.

Q. Did you know where the body was put? A. Yes, at the head of the bed.

Q. Did Burke ask you to go out and get a box? A. Yes. He said he had purchased one for to put old shoes in. I went for the box and a porter came and carried it. I afterwards followed with M'Dougal, our husbands, towards Newington, for fear they should quarrel or get drunk.

Q. What answer did you make to her about this shot? A. I said nothing.

Q. Had you and M'Dougal any talk about it on your way to Newington? A. No.

Q. Did she feel sorry for it? A. No.

Q. What were you speaking of while you were in the passage? A. Perhaps I said it might be the same thing with her and I.

Q. Do you mean that you might be murdered? A. Yes.

Q. Why did you not go into the woman Connaway's?

A. Because I left my home three times before; and it is not natural for a woman to go and inform on her husband.

Q. You mention the old woman went out at the door? A. No, Sir, she never went out of the inside door.

Q. Was it after she came back from the door she fell down? A. I believe she got a push.

Q. Was it very soon after that that Burke lay down on her? A. Yes.

Q. What was he doing when you run out? A. Burke was lying on her chest.

Q. Why did you go out? A. I did not like to see her murdered.

Q. Was your fear created in consequence of M'Dougal having told you she was a shot? A. No. I had no thoughts of it at the time.

By the COURT.—On the oath you have now taken, did you suppose she was to be murdered that night? A. No, I did not.

*Mrs. Hare Cross-examined by the* DEAN OF FACULTY.

Q. Was it instantly after the old woman was pushed down that he got on the top of her? A. Yes.

Q. There's a door at the outer side of the passage? A. Yes.

Q. How is it fastened? A. I don't know.

Q. When you were in the passage did any one knock at that door? A. Not that I heard.

Q. When you were in the passage did you hear the old woman cry? A. No, Sir.

Q. When you returned in, you went to bed? A. Yes, Sir.

Q. There was a young man of the name of Broggan came in? A. Yes, and we had a dram.

Q. Who? A. All of us.

Q. Then you got up to have it? A. Yes.

Q. Did you go to bed again? A. No.

Q. Was M'Dougal in bed? A. No; Broggan, M'Dougal, and I lay down upon the floor.

Q. Was there any more fighting? A. Yes; Burke took the stick and struck Hare, and M'Dougal interfered and said she would not have Hare treated in that manner.

By the COURT.—You had a bed in your own house, why did you not go home to it, and take your husband along with you? A I did all I could, but he would not come.

Dr. BLACK, *Examined.*

Q. You saw a woman's body at the Police Office? A. Yes.

Q. Did you examine it? A. Yes.

Q. Were there any marks on the body? A. None.

Q. Were there any on the face? A. Yes, there was blood.

Q. What appearance had the face? A. It was much swollen.

Q. Any thing remarkable about the eyes? A. They were swollen and the face black.

Q. Did you think that she came by her death by violence? A. My private opinion was that she had, but I could not give a decided medical opinion on the subject.

Q. What was your opinion the moment you saw her? A. I formed the conclusion that she came by her death with violence.

By the DEAN OF FACULTY.—Q. Have you any medical diploma? A. No; but I am a regularly bred surgeon, and have been surgeon to the police for twenty years.

Q. Did you go with the police to the house of Burke? A. Yes.

Q. What did you see there? A. The thing I took particular notice of was, from fourteen to sixteen ounces of blood mixed with saliva, and having been told the woman had lain in that place, I was able to judge it came from the mouth and nose.

Q. Do you mean now to state you have formed a medical opinion in regard to the body? A. I am really afraid to hazard an opinion.

By the COURT.—Q. Were the appearances you have seen on people brought into the police-office who have been suffocated from drink like this case? A. Yes.

Q. If you had seen this body lying in the place where you saw the saliva and blood, would you have hesitated in your opinion? A. I have seen several corpses that died by suffocation, and taking the entire circumstances into view, I think the appearances identical.

By the DEAN OF FACULTY.—Q. Have you had any case of simple suffocation lately? A. No.

Q. Were the symptoms here the same, or nearly the same, as in cases of suffocation from drink? A. The eyes were nearly started from the sockets.

By the LORD ADVOCATE.—Q. Have you seen such saliva and blood in cases of drink, unless some injury was done? A. No.

## DR. CHRISTISON, *Examined.*

Q. Did you see the body of an elderly female at the police-office at the commencement of November? A. Yes. I saw and minutely examined a body there on the 2d and 3d of November.

Q. Did you perceive any marks of violence on it? A. Yes.

Q. Describe what you saw to the Court and Jury?

A. I saw several contusions on the legs and the elbows, one on the loin, one on the right shoulder blade, a very small one on the inside of the upper lip, and two upon the head; one on the back part of the left side of the head, and another upon the fore part of the right side. I also found pale lividity of the features generally, and dark lividity of the lips; great redness (from vascularity) of the whites of the eyes; an almost total want of lividity on almost every other part of the body except the face; and roughing of the scarf-skin or cuticle under the chin and over the upper part of the throat. Internally, I found a general fluidity of the blood, and an accumulation of it in the right cavities of the heart. In the middle of the neck, I found the ligaments connecting posterior parts of the vertebræ torn, and blood effused among the spinal muscles, near the laceration, and into the cavities of the spinal muscles. I found no sign of natural disease, except a very slight incipient disorder of the liver. All the other organs of the head, the chest, and the belly, were unusually sound. I forgot to mention a small patch of blood on the left cheek, and also a very slight contusion over the left eye.

Q. Did you consider that those contusions could be produced after death?

A. No; but the injury of the spine and other appearances described might have been caused as well after death as before it. An injury properly applied eighteen hours after death, would, I think, cause the same appearances. Cramming into a box or chest like that shown might have caused these appearances. Strangulation or smothering, or throttling, is consistent with what has been described, but particularly throttling or applying the hand under the throat, and throwing the head backward, would prevent the access of air. I found unequivocal proof of violence, in the contusions dispersed throughout the body, and in no signs of disease being visible. I beg to add, from the woman being seen so recently alive and well, from the blood under the bed, as well as the appearances already mentioned, death by violence is extremely probable. If the woman had met her death by the prisoners at the bar, the appearances were such as would correspond with these circumstances. The appear-

ances in some cases of suffocation would be similar to those in the present instance. The appearance of blood from the mouth or nose after death may be produced by any species of suffocation. Directly or indirectly, death by intoxication must physiologically be occasioned by suffocation.

By Mr. Cockburn.—Q. Did the appearances found on the body justify only a suspicion? A. Coupled with the circumstances mentioned they amount to a probability.

By the Court.—Q. Did you open the stomach?

A. Yes, my Lord.

Q. Describe the contents. A. I found half-digested porridge, but no smell of whisky or of any narcotic. The smell is not a necessary circumstance even in cases of intoxication where a person was said to have died of continuous intoxication. At least I know of a reported case where a person was said to have died from constant intoxication, without any smell having been found in the stomach, though it was found in the brain and other parts of the body, but I also know a similar case where the stomach, on being opened, gave out the effluvia of whisky.

This closed the case for the prosecution.

The declarations of the pannels were then read.

## DECLARATION OF BURKE.

*At Edinburgh the 3d November* 1828.

In presence of George Tait, Esq. Sheriff-Substitute of Edinburghshire,

Compeared William Burke, at present in custody, who being examined, declares that he is 36 years of age, and he was born in Ireland, and he came to Scotland about 10 years ago: That he is a shoemaker, and he has lived for rather more than a year in the West Port, and about two months ago he went to the house in the West Port in which he at present lives; but he does not know the name of the entry; and the prisoner, Helen M'Dougal, has lived with him for about ten years; but she is not married to him. Declares, that he at first lodged in his present house with a man named John Brogan, but Brogan went away about ten days ago, and the declarant now lodges in the house by himself. Declares, that James Gray and his wife and child came to lodge with the declarant about a week ago. Declares, that on the night of Thursday last, the 30th of October, no person was in the declarant's house, except Helen M'Dougal, Gray, and his wife. Declares, that on the morning of Friday last he rose about

7 o'clock and immediately began to his work, by mending a pair of shoes: That M'Dougal rose about 9 o'clock. Declares, that Gray rose about 6 o'clock and went out: That Gray's wife rose soon afterwards and lighted the fire, and the declarant then rose as before mentioned. Declares, that he went out about 9 o'clock to get some tobacco, and he returned in a few minutes, and they all four breakfasted together about 10 o'clock, and the women were occupied through the day in washing and dressing, and sorting about the house; and Gray was going out and in, and the declarant was working; and declares that on Friday evening he told Gray that he and his wife must go to the other lodging, because he could not afford to support them any longer, as they did not pay for the provisions which they used, and they went away; and the declarant accompanied them to Hare's house, to which he recommended them. Declares, that he thinks Gray and his wife went away about 5 o'clock. Declares, that about an hour afterwards, when he was standing at the mouth of the entry, a man came forward to him dressed in a great coat, the cape of which was much up about his face: That he never saw that man before, and does not know his name: That the man asked if the declarant knew where he could get a pair of shoes mended, and the declarant, being a shoemaker, took him home with him, and got off the man's shoes and gave him an old pair in the meantime: That while the declarant was mending the shoes the man walked about the room, and made some remarks about the house being a quiet place, and said that he had a box which he wished to leave there for a short time, and the declarant consented: That the man went out, and in a few minutes returned with a box, which he laid down upon the floor near the bed, which was behind the declarant, who was sitting near the window, with his face to it: That the declarant heard the man unroping the box, and then making a sound as if he were covering something with straw, and the declarant looked round, and saw him pushing the box towards the bottom of the bed, where there was some straw on the floor, but he did not observe any thing else than the box: That the man then got on his shoes, paid the declarant a sixpence, and went away: That the declarant immediately rose to see what was in the box, and he looked under the bed and saw a dead body among the straw, but he could not observe whether it was a man or a woman: That soon afterwards the man came back, and declarant said it was wrong for him to have brought that there, and told him to put it back into the box, and take it away: That the man said that he would come back in a little and do it, and then

went away, but he did not return till Saturday evening about 6 o'clock, and when he did not return on Friday night, the declarant took the box into the entry, but allowed the body to remain under the bed. Declares, that on Saturday morning, about ten o'clock, he went out to the shop of a Mr Rymer, in the West Port, and when he was there, a woman came to the door begging, whom he had never seen before: That the people in the shop refused to give her any thing, and the declarant, discovering from her dialect that she came from Ireland, asked her from what part of it she came, she said it was from Inesomen, which is a small town in the north of Ireland, and he then asked her name, and she said that it was Mary Dougherty, and the declarant remarked, that his mother's name was Dougherty, and that she came from the same part of Ireland, and that, therefore, they might perhaps be distant relations; and as she said that she had not broken her fast for twenty-four hours, if she would come home with him, he would give her breakfast, at which time the only persons in the house were Helen M'Dougal, Gray and his wife: That she sat by the fire till about three o'clock in the afternoon smoking a pipe, the declarant going out and getting a dram, because it was Halloween, and they all five partook of the dram sitting by the fireside. Declares, that at three o'clock Mary Dougherty said, that she would go to the New Town to beg some provisions for herself, and she went away accordingly. Declares, that he thinks Helen M'Dougal was in the house when Mary Dougherty went away, but he does not remember whether Gray or his wife were in the house, and does not remember of any other person being in the house. Declares, that a few minutes before Mary Dougherty went away, William Hare's wife came into the house, but went away into the house of a neighbour, John Connoway, immediately before Dougherty, went away, and he thinks that Hare's wife, or Connoway's wife, may have seen Dougherty go away, and Mary Dougherty never returned. Declares, that Helen M'Dougal and Gray's wife then washed the floor, and cleaned out the house: That there was no particular reason for doing so farther than to have it clean upon the Saturday night, according to their practice; and the declarant continued at his work: That soon afterwards Gray and his wife went away, and Helen M'Dougal went to Connoway's house, leaving the Declarant by himself, and the Declarant had not mentioned to any person about the dead body, and no suspicion that it had been discovered. Declares, that about 6 o'clock in the evening, while he was still alone, the man who had brought the body came, accompanied by a Porter whom the declarant

knows by sight, and whose stance is at some where about the head of the Cowgate, or the foot of the Candlemaker-Row, and whose Christian name he thinks is John: That the man said he had come to take away the body, and the declarant told him the box was in the entry, and the Porter took it in, and the man and the Porter took the body, and put it into the box and roped it, and the porter carried it away. Declares, that when the man came with the porter he said he would give the declarant two guineas for the trouble he had in keeping the body, and proposed to take the body to Surgeons' Square to dispose of it to any person who would take it; and the declarant mentioned David Paterson as a person who had some connexion with the surgeons, and went to Paterson and took him to Surgeons' Square, where he found the man and the porter waiting with the box containing the body: That the body was delivered, and Paterson paid a certain number of pounds to the man, and £2, 10s. to the declarant: That he then went straight home, and was informed by some of the neighbours that a report had been raised of a dead body having been found in the house, and in particular by Connoway's wife, who told him that a policeman had been searching his house, and he then went out in search of a policeman, and he met Finlay and other policemen in the passage, and he told them who he was, and they went with him to the house and found nothing there, and they took him to the police office. Declares, that he yesterday saw in the police office the dead body of a woman, and he thinks it is the dead body which was below the bed, but it has no likeness to Mary Dougherty, who is not nearly so tall: And being interrogated whether the man who brought the body and afterwards came with the porter is William Hare, declares that he is. And being interrogated, declares that he does not know of any person who saw that Hare had any concern in bringing the body or in taking it away; and being interrogated, declares that the porter's name is John M'Culloch, and declares that the box in which the body was contained was a tea-chest; and being specially interrogated, declares that the woman above referred to, of the name of Mary Dougherty, was not in his house on Friday, and he never to his knowledge saw her till Saturday morning at 10 o'clock: That she promised him to return on the same evening, but she did not, and he does not know what may have become of her. And being interrogated, declares that he sprinkled some whisky about the house on Saturday, to prevent any smell from the dead body. Declares, that Hare did not tell him, nor

did he ask where he got the body. Declares, that he did not observe whether there was any blood upon the body. And being specially interrogated, declares, that he had no concern in doing harm to the woman before referred to, of the name of Mary Dougherty, or to the woman whose body was brought to the house, and he does not know of any other person being concerned in doing so. Declares, that Dougherty was dressed in a dark gown; and being shown a coarse linen sheet, a pillow case, a dark printed cotton gown, and a red striped bed gown, to which a label is affixed, and signed by the declarant and Sheriff, as relative hereto, declares, that the sheet and pillow-slip are his, and he knows nothing about the dark gown and bed gown: That the blood upon the pillow-slip was occasioned by his having struck Helen M'Dougal upon the nose, as is known to Gray and his wife; and the blood upon the sheet is occasioned by the state in which Helen M'Dougal was at the time, and is known to Gray's wife. All which is truth.

ARCHD. SCOTT. (Signed) WM. BURKE.
A. M'LUCAS. G. TAIT.
A. MACLEAN.

*At Edinburgh, the* 10*th day of November* 1828.

In presence of GEORGE TAIT, Esquire, Sheriff-Substitute of Edinburghshire.

Compeared William Burke, present prisoner in the Tolbooth of Edinburgh, who being examined, and the declaration emitted by him before the said Sheriff-Substitute of Edinburghshire, on the 3d day of November current, being read over to him, he declares that it is incorrect in several particulars—declares that it was upon the Friday morning, and not upon the Saturday morning, that the woman, named Mary Dougherty, came to the house, and that all that is said with reference to that woman, up to her going out at 3 o'clock, happened upon the Friday, and not upon the Saturday; and declares that the floor being wet in consequence of Helen M'Dougal and Gray's wife washing in the house, those two women washed the floor then, rather than defer it till next day, and the floor was usually washed twice a week, and it was usually washed on the Saturday, as one of the days: That those two women continued doing things about the house, and the declarant continued working till it was duskish: That the declarant then stopped work, and went out and brought in a dram, because it was Halloween, and he and the two women sat by the fire and drank the dram, and while

they were doing so, William Hare came in, and the declarant went for more drink, and they all four sat drinking till they got pretty hearty. Declares, that when he was out for drink the second time, he found when he came back, that Mary Dougherty had returned, and was sitting by the fire, and she drunk along with them : That when it was pretty late in the night, but he cannot mention the hour, he and William Hare differed, and rose to fight, and the three women were still in the house drinking, and Mary Dougherty had become much intoxicated. Declares, that while he and Hare were struggling together, Helen M'Dougal and Hare's wife did what they could to separate them; but declares that there was no noise, and, in particular, there were no cries of murder. Declares, that after they were separated, they sat down at the fire together to have another dram, and they then missed Mary Dougherty, and asked the other two women, what had become of her, and they answered that they did not know, and the declarant and Hare searched for her through the house, and they both went straight to the straw of the shake-down bed upon the floor at the bottom of the standing bed, to see whether she had crept in there, and they found her amongst the straw, lying against the wall, partly on her back and partly on her side : That her face was turned up, and there was something of the nature of vomiting coming from her mouth, but it was not bloody : That her body was warm, but she appeared to be insensible, and was not breathing : That, after waiting for a few minutes, they were all satisfied that she was dead, and the declarant and Hare proposed to strip the body, and lay it among the straw, but they did not, at that time, say what further they proposed to do, and Helen M'Dougal and Hare's wife immediately left the house, without saying any thing, and the declarant supposed it was because they did not wish to see the dead body : That the declarant and Hare waited till the neighbours should be quiet, there being a considerable stir among the neighbours on account of its being Halloween, and in particular, in the house of Connoway, who lives in the same passage, in case any of the neighbours should come in upon them, and they stripped the body, and laid it among the straw, and it was then proposed by both of them, but he cannot say by which of them first, to sell the body to the Surgeons, and they both arranged that they would sell the body to David Paterson, whom they knew to be a porter to Dr Knox, in Surgeons' Square, and who, they knew, received subjects, and that they would put the body into a chest, and get it conveyed to Surgeons' Square, the following morning, and they then sat down by the fire again, and Helen

M'Dougal and Hare's wife then returned, but nothing was said by any person about the dead body: That Hare and his wife then went home, at which time it would be near 12 o'clock on the Friday night, and the declarant and M'Dougal went to bed and fell asleep, and rose next morning soon after 6 o'clock: Declares, that Gray and his wife came in about 8 o'clock in the morning and lighted the fire, and prepared breakfast, and they all got breakfast together, and the declarant then went out, and brought in a dram, and sprinkled it under the bed, and upon the walls, to prevent any smell: Declares, that he went out about 12 o'clock noon, and was out for about two hours walking about, and when he returned, he found Gray, and his wife, and Helen M'Dougal still in the house, and after that he was occasionally out. Declares, that when it became dark he went to call for Paterson, but found that he was out, at which time it was past five o'clock: That he then got John M'Culloch, a porter, and took him to the passage of the declarant's house, and then left him there, and went into the house, and found William Hare there, but no other person, and he also saw an empty chest upon the floor, and they both immediately put the body of the woman into the tea-chest, and they roped it up with a line which hung across the house for drying clothes; and they called on M'Culloch and put the tea-chest upon his back and told him to follow Hare, but they did not tell him what was in the tea-chest, nor did he ask them; and the declarant then went straight to Paterson's house and found him at home, and told him that he had sent forward a subject to Surgeons' Square, and he has no recollection of having seen Paterson on the Friday or the Saturday before that time. Declares, that Paterson and the declarant then went to Surgeons' Square together, and they found Hare and M'Culloch waiting there with the tea-chest, and Paterson opened the door of a cellar and the tea-chest was put into it: That Paterson then went and got £5, and gave it to the declarant and Hare, and they paid the porter and then went to their respective homes, and the declarant on his way home met Helen M'Dougal, and when they got home they heard from Connoway's wife the report of policemen having searched the house for a dead body, and he then met with Finlay the criminal officer, and he was apprehended and taken to the police office as formerly mentioned; and being interrogated, declares, that he cannot say whether the dead body he saw in the police office on Sunday the 2d current be the body referred to; and being interrogated, declares, that he had no concern in killing the woman, or in doing any harm to

her, and he has no knowledge or suspicion of Hare or any other person having done so; and it is his opinion, that the woman was suffocated, by laying herself down among the straw in a state of intoxication; and being interrogated, declares, that no violence was done to the woman when she was in life, but a good deal of force was necessary to get the body into the chest, as it was stiff; and, in particular, they had to bend the head forward, and to one side, which may have hurt the neck a little, but he thinks that no force was used, such as could have hurt any part of the neck at all; and being specially interrogated, declares, that no other person had any concern in the matter; and, in particular, declares, that a young man, named John Brogan, had no concern in it, and that Brogan came into the house on Saturday forenoon, as he thinks, while the body was in the house, but he did not know of its being there. And all this is truth.

ARCHD. SCOTT. (Signed) WM. BURKE.
A. M'LUCAS. G. TAIT.
A. M'LEAN.

*At Edinburgh, the 19th day of November* 1828.

In presence of GEORGE TAIT, Esq. Sheriff-Substitute of Edinburghshire,

Compeared William Burke, present prisoner in the tolbooth of Edinburgh, who being examined, declares, that he is thirty-six years of age, and he was born in Ireland, and he came to Scotland about ten years ago, and he is a shoemaker, and he has lived for rather more than a year in the West Port; and the prisoner M'Dougal resides with him; declares, that he never saw a lad known by the name of Daft Jamie; and he does not know of such a person having lived with Hare's wife, before her marriage with the prisoner William Hare, and he had no concern in injuring such a person; and he does not know of M'Dougal, Hare or his wife, having done so. Interrogated, declares, that he has a brass snuff box which he purchased about four years ago from a shearer lad at Mr. Howden's farm, about two miles from Tranent for sixpence, and he left it in the Lock-up-house last Monday, when he was committed to jail; and declares, that he had a snuff spoon which was taken from him when apprehended, and he purchased it for twopence in September last from a hawker at the West Port, whose name and residence he does not know, and being shown a brass snuff

box, and a snuff spoon, to which a label is attached, signed by the declarant and Sheriff, as relative hereto, declares, that they are the snuff-box and snuff spoon he refers to; declares, that he gave the box to a tinsmith in the West Port, named James, whose surname he does not know, but whose shop is next door to Brown's circulating library, to put a new lid upon it, and he thinks he gave it to the tinsmith in September last, and the tinsmith kept it in his possession some weeks; and all this is truth, &c.

*At Edinburgh, the 3d day of November* 1828.

In presence of GEORGE TAIT, Esq. Sheriff-Substitute of Edinburghshire,

Compeared Helen M'Dougal, at present in custody, who being examined, declares, that she is 33 years of age, and she was born in Stirlingshire: That she never was *married*, although she has lived with the prisoner, William Burke, for 10 years: That about a year ago they came to reside in Tanner's Close, West Port; and about three months ago they went to another house in the West Port, but she does not know the name of the close: That a person, named John Brogie, occupied the house in which they at present reside; but Brogie left the house on Friday 8 days, and the declarant and Burke, who were living with Brogie previously to his leaving the house, took possession of it by themselves. Declares, that James Gray and his wife came to live with Burke on Sunday the 26th of October. Declares, that the only persons who were in the house on the night of Thursday last, the 30th of October, were Gray and his wife, and Burke and the declarant: That Burke and the declarant arose from bed on Friday morning about 10 o'clock, and Ann Gray made breakfast for them; and when she was making breakfast for them Burke went out, and said that he was going to the shop, by which she understood him to mean that he was going to get a dram, and he came in when breakfast was ready; and in about five minutes afterwards, when they were taking breakfast, a woman came in whom the declarant had never seen before, and who afterwards said that her Christian name was Mary: That Mary appeared to be the worse of liquor: That she asked leave to light her pipe at the fire; and she then asked a little bit of soap to wash her cap, and a short-gown, and her apron, and the declarant gave her a bit of soap, and she washed her clothes, and Gray's wife dried them and ironed them;

and while that was doing, she talked about having come from Ireland in quest of her son, and soon after she came into the house she said she had got no meat for three days, and the declarant gave her a share of their breakfast: That Burke and Mary entered into conversation; and Burke, upon hearing that she came from Ireland, said that he came from Ireland too, and he did not know but she might be a relation of his mother's. Declares, that about 1 o'clock in the afternoon Burke brought in some whisky and gave them a glass once round, it being the custom of Irish people to observe Hallowcen in that manner: That Mary became very impatient to go away in order to go to St. Mary's Wynd to inquire for her son, and she went away about 2 o'clock. Declares, that Burke had gone out about half an hour before that and returned about 3 o'clock; and when he came in, he mentioned that Nancy Connoway, a neighbour, had said to him that she wondered how he could keep Gray and his wife in the house because the noise of their quarrelling was so unpleasant to the neighbours; and therefore he told them to go away, and never to come back again, because he had not up-putting for them, and Gray and his wife accordingly went away immediately. Declares, that Hare's wife happened to be in the house at the time, and said that she would give them a night's lodging, as she had a spare bed, and the declarant supposed that they went to Hare's, and it would be about six o'clock when they went away: That Burke went to Hare's house about seven o'clock, and the declarant went about half an hour afterwards: That when she went to Hare's, Burke was not there, but she went to an adjoining shop and brought him there, and they had some supper and drink there: That the declarant then went home, and Burke followed soon afterwards bringing some whisky with him which he had got in a shop, and soon afterwards Hare and his wife came in, and they four had some spirits together; and Nancy Connoway, before mentioned, came in and had a share of the spirits: That the declarant then went to Connoway's house and had a dram, and then returned to her own house, and found Hare and his wife still there: That they almost immediately went away, but very soon returned, and Hare was very much intoxicated, and Hare lay down in the bed and slept along with Burke all night, and the declarant and Hare's wife slept on the floor: That about six o'clock in the morning Hare and his wife went away: That about seven o'clock, Gray and his wife came in to get some clothes which they left, and the declarant and Burke lay down in bed, and about eight o'clock Burke rose and told

Gray's wife, who still remained in the house along with her husband, to sort the house and get the kettle boiled, and he himself went to a neighbouring shop for tea and sugar and bread and butter: That when Burke came, Gray's wife made the tea, and Gray and his wife and Burke took breakfast together, and a young man named John Broghan came in and got a share of it: That the declarant did not take any of it: That after breakfast, Gray's wife washed the floor and cleaned the house, the declarant being in bed unwell, in consequence of drink which she had had, and Broghan was in the house most of the day: That Gray remained in the house all day: That Burke was sometimes out and sometimes in, and he lay down for a short time. Declares, that about five o'clock that afternoon the declarant sent Mrs. Gray to Mrs. Law's with some clothes to get mangled; and Gray and his wife left the declarant's house about seven o'clock to go to their lodgings, and shortly after they so left the house, Mrs. Law came and asked the declarant if she gave Mrs. Gray orders to get her gown: That the declarant said she had not, and Mrs. Law then said, she was off with it, and in a little after a girl came in and told the declarant that a man was on the street with the declarant's gown, and she went out and found Gray standing at the head of Tanner's Close with the gown under his arm: That she got her gown from Gray, and the declarant and Gray and his wife and Mrs. Hare had a dram together, and the declarant left the gown in Mrs. Law's to get mangled: That the declarant then went home and kindled the fire, and she went out for her husband as it was late, and after she found him they went into Connoway's house, where they remained for a few minutes, and Connoway told them that Mrs. Gray had been raising a disturbance, and the declarant and her husband were going out of Connoway's house, when they were apprehended by two policemen, who said that they had taken a corpse out of the house; and, being interrogated, declares, that she did not see Mary after two o'clock on the Friday, and, in particular, she did not see her in the house on the Friday night. Declares, that she yesterday saw the dead body of a woman in the Police Office, but declares that it is not the body of the woman named Mary, because Mary had dark hair, and the body of the woman in the Police Office had grey hair; and being interrogated, declares, that she had no knowledge or suspicion of there being any dead body in the house; and, in particular, of its being under the bed, till after she was apprehended. Declares, that there is only one bed in the house; and declares, that so far as she knows, nothing was under the

bed except a few potatoes and a little straw, which had fallen from the bed. Being interrogated, declares, that she had no conversation with Gray regarding a dead body; and in particular, never promised him any money not to say any thing about a dead body; and being shown a coarse linen sheet, a coarse pillow-case, a dark printed cotton gown, and a red striped cotton bed-gown, to which a label is attached, signed by the sheriff as relative hereto, declares, that the sheet belongs to a William M'Kinn, from whom the declarant got a loan of it. That the pillow-case was used for containing dirty clothes, and lay at the head of the bed as a pillow, but she never saw the dark gown before to her knowledge. Declares, that the bed-gown is like the one which Mary wore on the Friday, but she cannot say that it is the same, as it is torn. Declares, that Burke had no money on the Friday, and he had to borrow money for their breakfast on the Saturday morning. That the declarant got 3s. from him on Saturday night, but she does not know where he got that money; and, being specially interrogated, declares, that she had no concern in killing the woman Mary, or in hurting her, and does not know of Burke, or Hare, or any other person being concerned in doing so, or in concealing the dead body about the house, or in afterwards disposing of it. And, being interrogated in regard to some marks of blood on the sheet and pillow-slip, declares, that the marks upon the pillow-slip were from her nose bleeding, in consequence of Burke having struck her; and the blood upon the sheet proceeded from the declarant, in consequence of her state at the time, as was known to Mrs. Gray. And all this she declares to be truth, and that she cannot write.

ARCHD. SCOTT. (Signed) G. TAIT.
A. M'LUCAS.
A. MACLEAN.

*At Edinburgh, the 10th day of November* 1828.

In presence of GEORGE TAIT, Esq. Sheriff-Substitute of Edinburghshire,

Compeared Helen M'Dougal, present prisoner in the tolbooth of Edinburgh, and being examined, and the declaration emitted by her before the said Sheriff-Substitute, at Edinburgh, upon the 3d day of November current, being read over to her, she adheres thereto. And being interrogated, de-

clares, that between three and four o'clock of Friday afternoon, the woman named Mary insisted on having salt to wash herself with, and became otherwise very troublesome, and called for tea different times, and the declarant told her she could not be troubled with her any longer, and thrust her out of the door by the shoulders, and never saw her afterwards. And being interrogated, declares, That Brogan did not bring any woman into the house. And being interrogated, declares, That William Burke and William Hare had a slight difference and struggle together on Friday night, as she thinks; but there was no great noise made, and no cries of murder, so far as she heard. All which she declares to be truth; and that she cannot write.

ARCHD. SCOTT. (Signed) GEORGE TAIT.
A. M'LUCAS.
A. M'LEAN.

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The LORD ADVOCATE addressed the Jury in the following terms:—

*Gentlemen of the Jury.*—It is now my duty to make a few remarks on the tenor of the evidence which has been laid before you in support of the indictment against the pannels at the bar; and, at this late hour, when you must be exhausted with the long trial in which you have been engaged, I shall not detain you long. Indeed, had this been an ordinary case, I should have had great pleasure in leaving the evidence to your own judgment, without one word of comment from me, satisfied that, in the charge which you will receive from the Court, before you retire, a much more luminous and impartial detail of its substance and bearings will be given, than can be expected from one holding the situation which I do, as Public Prosecutor. But this is a case of no ordinary complexion; and I am, therefore, called on for some observations, more especially, as you will be addressed on behalf of the prisoners by my honourable and learned friends on the other side of the bar; and it might be thought remissness on my part, if I were to allow the evidence to go to you for a verdict, without some remarks on its tendency, while its true effect would perhaps be impaired by the able comments of the pannels' counsel.

Gentlemen, it affords me peculiar satisfaction to see, in a case of this kind, so full and formidable an array of counsel for the defence. In all cases, the Bar of Scotland does itself honour by undertaking the defence of the unhappy persons

who are brought before this Court accused of offences; but, in this case, I am proud and happy to see the most distinguished among my brethren engaged in the defence of the prisoners—coming forward and lending the strength of their great talents and great learning spontaneously and gratuitously to these unfortunate persons. It is for the ends of public justice that they have done so: and it is a great consolation to me, in the discharge of my painful duty, that the pannels, and in them the law and the country at large, will derive all the benefit which may be looked for from the knowledge and the eloquence of such distinguished advocates. If an acquittal should follow the proceedings in which we have this day been engaged, I hope it will be acknowledged that I have only done my duty to the public, in putting these prisoners on their trial; and should they be convicted, they will be ably defended, if they have any defence; and the country must be satisfied that the conviction will be just, when the defence is in the hands of counsel so eminent, and so universally and deservedly respected.

And, Gentlemen, this aid of able counsel is of the more importance, that this is one of the most extraordinary and novel subjects of trial that has ever been brought before this or any other Court, and has created in the public mind the greatest anxiety and alarm. I am not surprised at this excitement, because the offences charged are of so atrocious a description, that human nature shudders and revolts at it; and the belief that such crimes as are here charged have been committed among us, even in a single instance, is calculated to produce terror and dismay. This excitement arises from detestation of the assassins' deeds, and from veneration for the ashes of the dead. But I am bound to say, that whatever may have occasioned this general excitement, or raised it to that degree which exists, it has not originated in any improper disclosures on the part of those official persons who have been entrusted with the investigations connected with this business; for there never was a case in which the public officers to whom such inquiries are confided, displayed greater secrecy, circumspection, and ability. It is my duty, Gentlemen, to remove that alarm which prevails out of doors, and to afford all the protection which the law can give to the community against the perpetration of such crimes, by bringing the parties implicated to trial; and I trust it will tend to tranquillize the public mind, when I declare I am determined to do so. I cannot allow any collateral notions about the promotion of science to influence me in this course; and I am fully determined that

every thing in my power shall be done to bring to light and punishment those deeds of darkness which have so deeply affected the public mind.

Gentlemen, before I proceed to detail, which I shall do very briefly, the evidence now laid before you in support of the indictment against the prisoners, I must impress upon you what will be more eloquently and emphatically told you by their counsel and the Court, that in judging upon the only charge now under trial, you are to banish from your minds all impressions which you may have received from any other source than from the evidence itself. To that evidence alone you must confine your attention—and you are not to allow yourselves to be moved by the fact that there were other charges in the indictment of a similar description, because these charges have now been entirely withdrawn, for the present, from your consideration. Those charges have been separated from that now to be tried, at the special desire of the prisoners themselves, and to remove any ground of objection that an impression was necessarily created to the prejudice of the prisoners. God forbid, that I should ever in any case, pursue a criminal in a form to the prejudice of the party accused. The pannels are accused of murder—and the three instances that were libelled were only three separate facts in support of that general charge. But since the prisoners and their Counsel have made their option to be tried for each separately, and the Court have sanctioned this course, I willingly acquiesce in it. I must say, however, that in framing the indictment, including all the three charges, I did so to give the pannels the fairest chances on their trial, and for the purpose of probing to the bottom the whole system of atrocity, a part of which I have this day brought before you, with evidence, which, I conceive, amounts to the most complete and convincing proof.

In going over that proof, Gentlemen, it is not necessary that I should read over to you fully the notes of the evidence —because that will be more ably and authoritatively done by the Court, than it can be by any one in the situation of Public Prosecutor. I shall, therefore, content myself with a condensed and connected reference to its import—from which I have no doubt, you will find a verdict of guilty against the pannels.

Gentlemen—the chain of evidence in this case is very complete, and you can, from the testimony of the witnesses you have heard examined, trace the poor creature who was murdered, from Mrs. Stewart's house, in the Pleasance, to Burke's house, where she was bereaved of life, and whence her body

was afterwards carried, by the direction of Burke, to Dr. Knox's dissecting-room, in Surgeons' Square, where Burke sold it to the Doctor, and delivered it to his assistant. This is the essence of the crime charged, and it is clearly established in evidence. You have heard the evidence of Mrs. Stewart, that in the forenoon of Friday, the 31st October last, the deceased left Mrs. Stewart's house to go in quest of her son. In this case there is no doubt as to the time, for it was in the Sacrament week, and on Hallowe'en—two circumstances which enable all the witnesses to speak positively on that point. You have next the testimony of Charles M'Lachlan, who lodged with Mrs. Stewart, and who accompanied the deceased as far as his own shop in St. Mary's Wynd, where he parted with her, betwixt nine and ten o'clock on the forenoon of that day. You have then the testimony of William Noble, Mr. Rymer's shop boy, that she met with Burke in his master's shop, at an early hour in the forenoon of the same day, when he asked her name, and struck up an acquaintance with her on hearing it, upon a pretence that it was likely she was a kinswoman; and as she was destitute, and seeking charity, he beguiled her to his house in the West Port, by pretending kindness, offering her breakfast, &c. Mrs. Connaway, who lived in the same house with Burke, saw him pass into his apartment with the deceased in his company, about the middle of the same day—saw her again in the evening in Burke's company, when jollity prevailed—dancing, and singing, and drinking; in all of which hospitalities the deceased joined, and was in perfect health and good spirits; and, finally, saw her go from her (Connaway's) house into Burke's, about eleven o'clock the same night, in company with the pannels and Hare and his wife. Mrs. Law corroborates a great deal of this, and the deceased is identified by all these witnesses, so as to leave that matter quite clear. Then, the disturbance in Burke's house, after the pannels, and Hares, and the deceased went into it, is instructed by all the neighbours; and the testimony of Alston is most important; for, in addition to the other circumstances previously established, he proves that, betwixt eleven and twelve o'clock the same night, he heard a riot in Burke's house, and cries of murder and distress, which induced him to go in search of the Police; but not finding an officer, and the cries having ceased, he concluded the riot to be over, and the mischief which he apprehended, to be at an end. It is also proved, by Connaway and others, that Burke went out in the evening, and was absent about ten o'clock, at which hour, it is proved by Elizabeth Paterson,

that Burke called, inquiring for her brother, an assistant to Dr. Knox, Lecturer on Anatomy; and he being from home, that Burke proceeded with the deceased, and the other persons referred to, including the defunct, into his own apartment, at eleven o'clock that night. There is the testimony of Gray and his wife, that they, being temporary lodgers in Burke's house, were requested to go elsewhere *for that night*, and that their lodgings for that night were provided and paid for by Burke; and they confirm many particulars stated by the other witnesses. Then there is the testimony of Paterson, Dr. Knox's assistant, that Burke came to him at twelve o'clock the same night—took him to his house, and told him he had got a subject for the Doctor. You have the evidence of Gray and his wife, that on Saturday the 1st November, they found lying under the bed, the dead body of the deceased, whom they had seen the previous night in Burke's room, alive and in good health. There is no evidence that she was drunk. You have the evidence of the porter who packed and carried the dead body to Surgeons' Square—of Paterson who received it in a box, and paid £5 of the price to Burke and Hare—of the shop-boy who sold the box to Burke; and thus proof of every circumstance, except the actual fact of murdering the woman by the pannels; and then that is supplied by the testimony of the Hares, who, no doubt, were *socii criminis*, and who explain all the horrible details of the perpetration of this deliberate and midnight murder. That they are liable to suspicions as *socii criminis*, I admit; but they only corroborate evidence which, in all its parts, would alone be sufficient to bring home the crime to the pannels: and, however worthless these persons may be, it is with you, gentlemen of the jury, to decide to what measure of credibility they are entitled, when they, in this and other particulars, give an explanation of what could only be seen by them at the time—being an occult crime, committed in the dead of night. When it is proved by other unexceptionable evidence that Burke seduced this poor destitute woman into his house, on a pretext of hospitality, she being at that time in perfect health, that he went to a person with whom he was in the habit of dealing in dead bodies, as anatomical subjects, at ten o'clock—went again to him at twelve the same night, and offered him a subject—and next day carried it, and sold for money the body of the deceased, which has been fully and satisfactorily identified,—what conclusion can be drawn from all this good evidence, corroborated by that of the *socii*, but that these pannels had perpetrated the foul murder libel-

led, with the intent and purpose of selling the body to be dissected, for a paltry sum of money? I will not waste your time by going into every minute circumstance in the proof; but it is all consistent,—reconcilable, except in the most trivial and unimportant points, and perfectly conclusive against the prisoner Burke. The credibility of the *socii* will be strongly questioned, I have no doubt, by the counsel for the defence; but giving all proper weight to the ordinary objections in such cases, I submit to you that the main points of the case are borne out by all the other circumstances that are well established. In particular, I must call your attention to the testimony of Hare, that Campbell went out into the passage and called "Police and murder" during the scuffle betwixt him and Burke; and that when Burke began his work of death she gave "a screech." This is confirmed by Mr. Alston, who providentially arrived in the immediate vicinity at that critical time; and he depones, that when he heard in Burke's house the sound of a scuffle and fighting, he also heard, first, a female voice calling "Murder" and "Police," "For God's sake go for the police, for there is murder here;" and in a few minutes he heard some person or animal give fainter cries, as if it were choking.

This witness is above all suspicion, and corroborates Hare's edition of the transaction in these most material particulars; and then Burke admits in his declaration many of the facts sworn to by the several witnesses. He admits that he picked the deceased up in Rymer's shop—that she was in his apartment during the 31st October, and at a late hour that night. He acknowledges that he administered liquor to her, that she lost her life that night in his house, and that next day he had her body packed up in a box and carried to Dr. Knox's dissecting room, after which he got money from Paterson for it. In these circumstances, is it possible to doubt that he murdered her for the purpose of selling her body? And even from the facts admitted by himself, independently of all other proof, I feel myself warranted to call on you for a verdict of guilty.—That the woman M'Dougal, who was not bound to him by any legal tie, was guilty art and part, and witnessed and sanctioned the whole proceedings, is equally clear. I, therefore, submit to you, Gentlemen of the Jury, that you ought to give a verdict of guilty against the pannels. And if you do not give a verdict against them, I do not think it possible that in any case I shall ever obtain a verdict against the greatest criminals. The crime now charged is one of unexampled atrocity—unexampled in the history of

civilized countries—and the occurrence of which, in this country, in my time, is a circumstance which I deeply deplore.

The DEAN of FACULTY began his address to the jury at three o'clock on Thursday morning, and at first spoke in a low tone of voice, indicating exhaustion. He addressed the jury nearly as follows, and soon began to speak with his wonted energy:—

Gentlemen,—It is some relief to my mind at this moment, that I shall not have occasion to go over all the mass of evidence which has been laid before you in support of the charge against the prisoners. We have now been seventeen hours engaged in this trial, and, with the exception of a short space consumed in the discussion of the point of form, the whole of that time has been devoted to the hearing of evidence in support of the prosecution. Such a mass of testimony must of itself distract and press heavily upon your minds; but it shall be my endeavour to show you, that, extensive and varied as it is, it does not amount to that legal proof which you require, as a jury, to find a verdict against my client; and that it is wholly destitute of force, on the main, and indeed, the sole fact in the case—that the pannel Burke did commit the crime of murder charged against him in this indictment.

Gentlemen, I do not stand here as the advocate of William Burke's character. To do so would be to insult you, and to degrade my own profession. But I appear before you as an advocate for the great principle of our law, under which you and I, and all of us, live and repose in safety—the broad and general principle, that no man is to be held guilty of any crime unless his guilt be proved by good and unexceptionable legal evidence,—and to the benefit of this sacred principle my client, however odious, or however abandoned he may be in any other respect, is fully entitled in judging of the case now before you.

The pannel, Burke, labours under great disadvantages—He is avowedly a person who has been engaged in the loathsome and detested occupation of procuring dead bodies for dissection; and this circumstance is calculated to excite prejudice, and ought to guard your minds strongly against being influenced by any feelings, except the convictions of your understandings, and the dictates of your consciences, on a strict and rigorous examination of the evidence which has been laid before you. And I must warn you also against any prepossessions created by what has appeared in newspapers, or otherwise, out of doors. Gentlemen, laying all prejudices and extrajudicial statements aside, and guarded only by the

lights of law and of justice, you must look steadily at your duty as jurymen—not to the many irrelevant circumstances which have been this day sworn to, but to the evidence which has been laid before you of a murder having, as is alleged, been committed on the body of Campbell, and committed by my client Burke. Now, I maintain, that of these averments there is no proof at all—for none of the witnesses, except Hare and his wife, swear to that point—and they are so utterly contaminated—and have such strong and obvious motives to criminate my clients in order to screen themselves, that their evidence is of no value whatever. They are incredible as witnesses—and they are in this case the only witnesses. It has been said they corroborate the other witnesses; but this cannot be the case, for there is nothing to corroborate. There is no other evidence of the fact of the murder charged in the indictment but their testimony; and that testimony cannot be believed.

Gentlemen, it is the great and governing principle of our law, that in all cases of alleged murder, the fact of murder must be proved. In the highest species of murder, that of high treason,—that of compassing the death of the King—the overt act must be established by unexceptionable evidence. Constructive treason is not now recognized in our law. In such cases the accused is covered all over with the armour of the law; and to every other case of alleged murder the same principle extends its protecting power. The fact of murder must here be proved; the fact of murder by the hand of Burke—for without that fact being established by good, credible, and unpolluted witnesses, there is here no case, and no evidence whatever, in support of the indictment.

There are many flaws and inconsistencies in the whole of the evidence; and Hare and his wife not only contradict each other in several instances, but the statements of both are contradicted by other witnesses who also contradict one another. Thus Mary Stewart swears that Campbell left her house in the Pleasance, betwixt 7 and 8 o'clock on the morning of Friday, 31st October, while M'Lachlan swears that it was between nine and ten. William Noble says it was on that Friday morning about breakfast-time that Burke and the woman Campbell met in his master's shop; but Mrs. Connaway says it was mid-day when they entered Burke's house to breakfast, and Mrs. Law makes it two in the afternoon. But this is nothing to the contradictory testimonies of Hare and his wife themselves, as to the scenes in Burke's house. Hare swears that at the time of the scuffle the old woman went out

into the passage and cried "police," and "murder;" but his wife swears that she never went out of the inside door, nor cried out at all. And the wife even contradicts herself; for at another part of the evidence she says that Campbell did call out "murder." Again, Hare says that when Burke was above Campbell on the floor, and when his wife and M'Dougal heard the first screech, they leaped out of bed and ran into the passage; but the wife says that she was not in the bed when Burke was lying on the old woman, but standing between the door and the bed. And after all the scenes which they pretend to describe with such accuracy and truth, Hare says that he did not go to bed, but slept on a chair with his head on the bed, the two women and Broggan being in the bed, and Broggan being next to his aunt M'Dougal; while the wife swears that she, Broggan, and M'Dougal, lay down upon the floor, and the men, Burke and Hare, slept in the bed, the dead body being underneath it; and Broggan gives an account of the matter differing entirely from both, for he says that he and the men lay on the floor at the fireside, while the two women were in bed. Then as to the proceedings of Saturday, we have a similar tissue of contradictions. Hare swears that Burke took the body from under the bed, and the porter helped him to put it into the box. But M'Culloch swears that he did not assist in putting the body into the box—that he did not see a body at all, but *something* in a sheet, and that he only thought it was a body, because he saw some hair sticking out after this something was crammed into the box. Further, as to the settlement of the price by Paterson, we have more contradiction. Paterson swore that he had seen both Hare and Burke dealing with Dr. Knox about dead bodies: that he had been directed by the doctor to divide the L.5 betwixt them to prevent them from quarreling, as they had done formerly: that he took them to a public house and got change, and gave each L.2, 10s., that they left something for the porter, and that the whole price of the body was L.8. Now Hare swears that Paterson gave the porter 5s., and each of the others L.2, 7s. 6d., and that the price of the subject was L.10. But Hare, on cross-examination, said it was from Burke, not Paterson, that he got the L.2, 7s. 6d. Paterson says that he gave each of Burke and Hare L.2, 10s. and that they paid the porter; but the porter himself swears that it was Paterson who paid him, so that all these witnesses, Paterson, M'Culloch, and Hare, prevaricate and contradict each other in the clearest and most unequivocal manner.

Paterson, who was questioned as a person having medical

and anatomical knowledge, as to the appearance of the body, deponed, that the eyes did not project when the subject was taken from the box, and Dr. Black swore that the eyes were nearly started from the sockets, and he further said that Docherty's appearance was very much the same with that of persons brought to the police office who had been suffocated with drink; and he declared he was afraid to hazard an opinion whether her death had been occasioned by violence. Dr. Christison merely stated his opinion that it was probable she had suffered a violent death; but there never were medical opinions on the whole so various and inconclusive in support of a libel for murder.

These particulars in the evidence may appear trivial; but in a case of circumstantial evidence, the most trivial circumstance is often of the greatest importance in judging of a witness's credibility; and when you find among so many of the witnesses in this case such a cluster of inconsistencies and contradictions;—when you remember the nature of the occupations in which these witnesses are avowedly engaged, and consider the motives by which they must be actuated, to white-wash themselves as far as possible by inculpating the pannels, it is utterly impossible you can give credence to their testimonies, or listen to it for one moment as the evidence of witnesses upon which you can with a safe conscience give a verdict against the pannels. The Dean concluded by urging the jury to keep in mind the general principle on which the safety of every man in society rested, and the necessity of the murder being proved upon better evidence than that of such nefarious witnesses.

Mr. Cockburn, for the pannel M'Dougal, said, that in pleading her defence, it was only necessary for him to assume what was contrary to the fact, that the Public Prosecutor had succeeded in establishing the guilt of the other pannel Burke; a proposition which no one would maintain after listening to the powerful argument of his friend the Dean of Faculty. But he would assume that the guilt of Burke was established, and what followed? Not that the other pannel M'Dougal had aided and assisted in that murder, but that she fled from the scene described by Hare, and did not even witness the atrocities of which that monster held himself out as a willing and passive spectator. Although it were correct and credible, it proves nothing against M'Dougal. But to talk of their credibility was a sporting with men's lives and a mockery of justice. The evidence of these miscreants could not be received in the same manner as the evidence of an honest person. Their

character was written in characters of blood, that never could be effaced from the recollection of those who heard their horrid narrative. Could they conceive that an accessory to murder was worthy of credit?—and yet the law made him an admissible witness. The man who was the chief evidence in a trial for the crime of murder,—who had told that he sat on a chair within a yard of the murdered and murderer, and raised not an arm, nor uttered a cry to save the unhappy victim calling for help and struggling with the assassin in the last agonies of life;—which was the most guilty,—the cool, cold-blooded spectator of the foul murder—or the actor, whose physical exertions would, in such an awful moment, impart phrenzy to his mind? There were certain questions which he had felt it his duty to put to Hare; but which he warned him he need not answer unless he chose. "I asked him," said Mr. Cockburn, "if he had been concerned in other murders; but he declined to answer. I asked him whether a murder was committed in his own house in October last; and again that monster took shelter in his privilege. In what situation was that man placed when he gave his evidence? There were other murders hanging over his head, upon which he might be libelled; he came from the jail and would be returned to it,—knowing full well, that, if the case failed, he might be called upon to descend from the witness-box, to take, along with his wife, his place at the bar—in short, to exchange places with the pannels. And if they were the pannels, and Burke and M'Dougal the witnesses, then would the true state of the case appear and the present witnesses would be proved the guilty perpetrators. The monster had come that very day out of jail, to which he would be again consigned if he failed to make them (the Jury) believe his story." He (Mr. C.) had often heard of King's evidences, or approvers, in crimes to which they had been accessories; but of persons coming to give evidence with other crimes of a similar nature hanging over their heads, the very idea was horrible. If Hare and his wife had stood at the bar, and made a judicial confession of participation in the crimes which they had stated from the witness-box, sentence of conviction, legally disqualifying them, would have been recorded; but being allowed to make their confession from the box, they were not only freed from the crime, but cleared to the effect of being converted into good and credible witnesses. But what could a jury think of the evidence of the man who came forward and said, "I have been guilty of one murder, but want to free myself from blame by impeaching another who was not probably so guilty?"

They had seen the squalid wretch—the very picture of his revolting traffic—a visible spectacle of penury and profligacy.

And then, as to Hare's wife; Mr. Cockburn said he did not know whether or not the Lord Advocate had any skill in physiognomy. Perhaps the Lord Advocate liked her face—a good one for a King's evidence;—but as his Lordship's back was towards the witness, he did not perhaps see that woman's face so well as he (Mr. C.) did. To him it appeared, that on that countenance every evil passion was imprinted. She stood in that box, with a miserable child in her arms, the blighted creature of vice and misery; and, instead of casting upon it a look of maternal tenderness in its distress, she evinced a harshness and brutality, and seemed to eye it in such a manner as added to her malign aspect. He would say, without fear of contradiction, that he never had, in the course of his practice, seen such wretches placed in the witness box. The learned gentleman alluded to the declarations, and said, if the jury allowed their minds to be influenced by the statements of those documents, the pannels would be legally murdered.

And in the conclusion of his speech, Mr. Cockburn addressed the jury in a tone of peculiar eloquence and impressiveness: "If, Gentlemen, (said he,) you have any doubts—you must give the pannels the benefit of those doubts;—and after seeing the exhibition, and hearing the testimonies of Hare and his wife this day as witnesses—good God! can you say there are no doubts? It is the duty of the Public Prosecutor to prove his case by good evidence. He has produced a horde of wretches who are a pollution to any evidence. The Hares, the Grays, the Connoways, M'Cullochs, and Brogans, the whole host of witnesses to every material circumstance in the proof are polluted. Talk not of suspicions of dangers to the public—for in my mind no greater danger can be imagined than that of a criminal verdict on doubtful and polluted evidence. Though the town should ring with clamours and the country resound with them, you are only called on the more strongly to discharge your duty manfully, by the exercise of your own judgment, and the dictates of your consciences—banishing from your minds every prejudice, and looking well to the nature of the evidence on which you are called to condemn a fellow-creature to death—recollecting too, that when the public mind is agitated and disturbed, it is the Courts of Law, and the Juries of our country, who hold in their hands the balance of justice—and that when the storm is up, and popular prejudice and passion rage around, the louder is the call for an en-

lightened and intrepid discharge of your duty." He concluded by craving an acquittal of M'Dougal from the charge made against her.

The Lord Justice Clerk began his charge to the Jury at six o'clock on Thursday morning, and finished about half past eight. His Lordship expressed great satisfaction at the defence having been committed to such eminent counsel; for he could assure them (the jury) he never had heard the defence of any individuals conducted with more zeal and consummate ability than that of the prisoners. There was another consideration which he was called upon to bring under their notice; namely, to express his thorough confidence that they would divest their minds of every impression or prejudice which might have been raised from what they had read or heard out of doors. It would be a matter of infinite regret, if writings or publications, or any sort of public feeling, should for one instant affect their minds; but he was sure they knew their duty too well, to be influenced by prejudice; they would be guided by nothing but the facts as disclosed during the investigation.

The evidence was partly circumstantial, and partly direct. The first was composed of a number of minute facts and circumstances; and the latter of the testimony of *socii*. It would be their duty,—First, to consider the general evidence; Secondly, that of the *socii*; and, Thirdly, the combined effect of both conjoined. From these, the verdict, upon a fair inference drawn from a consideration of the whole, would be made up. His Lordship then directed the attention of the Jury to the way and manner the old woman, Campbell, had been bereaved of life, informing them, that if they were satisfied she had not died in consequence of violence, there would be an end of the inquiry. If they held the contrary opinion, they would proceed to consider, whether she had lost her life by the hands of the prisoners, or one or other of them.

The evidence of the identity of her person was the first branch of the investigation. His Lordship then went over the whole evidence with great minuteness, commenting upon those parts where there were seeming contradictions, or which had been specially alluded to by the Public Prosecutor, or the counsel for the pannels, in the course of the defence, but it is unnecessary to recapitulate his Lordship's detail, as the reader has the whole evidence itself before him.

With respect to the *socii*, his Lordship said they were entitled to credit, if they gave a true account of the transaction of which they spoke. He admitted they were not placed in the same situation with persons against whom no sus-

picion existed; but it was the duty of the jury to sift their evidence, and in as far as it was corroborated by good evidence, it was entitled to such a measure of credibility as they in their consciences thought it merited. They had been told of the Hares being connected with other murders. With what murders they might be chargeable, he did not know; but to a certainty, they could not be libelled on either of the charges contained in the libel now under trial, and which had not been sent to the jury. It was, therefore, unfounded in law to say, that these two persons were liable to be tried for the two murders contained in the indictment. These individuals, who were under the protection of the Court, had been called as accomplices, in the same manner as associates in robbery, wilful fire-raising, and other capital crimes. With respect to M'Dougal, his Lordship was understood to express his opinion, that if the evidence was to be believed, she had been an accessory before the commission of the crime, during its commission, and after it was committed; and, upon the whole, he considered the libel as made out against both.

The Jury then retired at half-past eight o'clock to consider their verdict, and after an absence of fifty minutes, returned into Court and gave in the following verdict by their chancellor, WILLIAM MACFIE, ESQ.

## VERDICT.

The jury find the pannel, William Burke, guilty of the third charge in the indictment, and find the indictment not proven against the pannel Helen M'Dougal.

The Lords assoilzie the pannel, Helen M'Dougal, simpliciter, and dismiss her from the bar.

The LORD ADVOCATE having moved for the sentence of the Court,

Lord MEADOWBANK gave his opinion nearly in the following terms:

My Lords, after a trial of unexampled length—protracted to nearly twenty-four hours—a trial in which the minds of your Lordships have been exerted to the uttermost, it would be improper in me to detain the Court with commenting on the circumstances of this most atrocious

case; and I feel that it is quite impossible for any one who has attended to the proceedings on this trial, to think that we have any thing left to do, but to go through with the distressing duty which is now fallen to your Lordships to perform. But it is impossible, in considering the whole circumstances of this distressing case, not to advert to that extraordinary—that most unexampled, and that atrocious system, which every one must feel has been developed by the evidence that has been brought forward. I am sure, and I speak in the presence of your Lordships, who can correct me if I am wrong, that in the whole history of the country—I may say, in the history of civilized society—nothing has ever been exhibited that is, in any respect, parallel to this case. Murders have been committed before now; crimes of all descriptions have unhappily been too common; but we had flattered ourselves that our county was, in a great measure, free from the stigma of any great or heinous atrocity committed within its bounds. That there should have been found, therefore, not one but many leagued and combined together, in order to sacrifice their unoffending fellow-creatures, for the wretched purpose of disposing of their bodies, is, to the last degree, humiliating. The very announcement of such a system is sufficient to raise ideas of horror which it would be vain to search for words adequately to express. When I take a view of the other features of this case, it exhibits a picture of iniquity which the greatest stretch of imagination can hardly take in, yet it was so clearly brought in proof, that, I am sure, it must carry conviction to every one who heard the evidence. It is proved that the prisoner, in going up the street after some of his usual avocations in the morning, fell in with the poor unprotected old woman, with whom, it is quite clear, that he was perfectly unacquainted before. Now began his arrangements for ensnaring his victim. With the immediate feeling upon him of the object which he had in view, he claims kindred with her by a fictitious name; and by pretences of kindness endeavours to gain on her affections. He entices her into his own house, and there continued his friendship to her, insomuch that she expressed gratitude to Mrs. Connoway for the kindness with which he had treated her. He thus contrives so far to attain his object, that she seems to have opened her affection and confidence to him—she looked to him for protection—she felt he had dealt kindly with her—she refused to enter the house until he entered with her. She did enter with him. A struggle, or pretended struggle, ensued; and, when

I recollect that the moment she fell that struggle ended, I cannot rationally entertain a doubt that it was feigned, and got up for the purpose of entrapping her, and throwing her off her guard. What did the individual to whom she looked for protection now do? She is thrown down, and he, with the atrocity of a demon, instantly throws himself upon her, and extinguishes life in a few moments. I do not state this with any view whatever of exciting the feelings, or aggravating indignation against the unhappy prisoner, but really when such a system of crime, in which there are many actors, is developed in the midst of this great metropolis, I cannot resist stating the impression which it has made upon my mind as one of the most monstrous exhibitions of atrocity ever disclosed in the annals of criminal jurisprudence in this or any other country. Sitting as I do in this place, there is little occasion to advert to certain matters that were pointed at, and eloquently pointed at, in the course of the defence. I will only observe, that with matters of science we have nothing to do. We have nothing to do but to administer the law as handed down to us, and God forbid that the claims of science, or of philosophy, or of speculation of any kind, shall prevent us from feeling the horror which such offences are naturally calculated to excite. With respect to the issue to the prisoner, your Lordships are aware that that issue must be death. The highest law has said, "Thou shalt not kill—thou shalt do no murder;" and the law of this country says, that he who commits murder shall suffer death. The prisoner must have considered that he was committing the high crime of murder. In his breast, as in the breast of every one, must be implanted that feeling, that murder was the most heinous of crimes. There is no doubt that it is the duty of the Court to pronounce sentence on the prisoner; and I now suggest that he be detained in the Tolbooth of Edinburgh, and that he suffer death on the scaffold on the 28th day of January next, and his body be given for dissection.

Lord MACKENZIE expressed his concurrence.

The LORD JUSTICE CLERK then addressed the prisoner nearly as follows:—William Burke, you now stand convicted by the verdict of an intelligent and respectable Jury, of the atrocious murder charged against you in the indictment, upon evidence which could not leave a doubt of your guilt on the mind of any one who heard it. I so fully concur in the view which has been so eloquently given by my learned brother, of

the nature of the offence, that I will not occupy the time of the Court with commenting on it. A crime more atrocious, a more cold-blooded, deliberate, and systematic preparation for murder, and the motive so paltry, was really unexampled in the annals of the country. It is now my duty to inform you, that if ever it was clear beyond all possibility of a doubt, that the sentence would in any case be carried into full execution, this is the case. You may rest assured that you have no chance of pardon; and I now would solemnly warn you to prepare your mind in the most suitable manner to appear in a very short time before the throne of Almighty God, to answer for this crime, and for every other with which you stand chargeable in your own conscience. The necessity of repressing crimes of this nature precludes the possibility of your entertaining the slightest hope of a remission of your sentence. The only doubt I have in my mind is, whether to satisfy the violated laws of your country and the voice of public indignation, your body ought not to be exhibited in chains, to bleach in the winds, in order to deter others from the commission of similar offences. But, taking into consideration that the public eye would be offended by so dismal a spectacle, I am willing to accede to a more lenient execution of your sentence, and that your body should be publicly dissected. I trust that if it is ever customary to preserve skeletons, yours will be preserved, in order that posterity may keep in remembrance your atrocious crimes. I earnestly advise you to lose no time in humbling yourself in the sight of God, and that you will seek the aid of the ministers of religion, to whatever profession you may belong. The present charges having been fully established against you, it is my duty to inform you that you have but a few days to remain on the earth. His Lordship then pronounced, with due solemnity, the sentence of the law, which was recorded in the following terms:

## SENTENCE.

The Lord Justice Clerk and Lords Commissioners of Justiciary, in respect of the verdict before recorded, decern and adjudge the said William Burke, pannel, to be carried from the bar back to the tolbooth of Edinburgh, therein to be detained, and to be fed on bread and water only, in terms of an act of Parliament passed in the 25th year of the reign of His

Majesty King George the Second, entitled " an Act for preventing the horrid crime of murder," until Wednesday the twenty-eighth day of January next to come, and upon that day to be taken furth of the said tolbooth to the common place of execution in the Lawnmarket of Edinburgh, and then and there, between the hours of eight and ten o'clock before noon of the said day, to be hanged by the neck by the hands of the common executioner upon a gibbet until he be dead, and his body thereafter to be delivered to Dr. Alexander Munro, Professor of Anatomy in the University of Edinburgh, to be by him publicly dissected and anatomized, in terms of the said act, and ordain all his moveable goods and gear to be escheat and inbrought to His Majesty's use, which is pronounced for doom.

(Signed) D. Boyle,
A. Maconochie,
J. H. Mackenzie.

Counsel for the Crown, the Lord Advocate, Robert Dundas, Esq., Archibald Alison, Esq., and Alexander Wood, Esq., Advocate Deputes, James Tytler, Esq., Crown Agent.

Counsel for Burke, Sir James W. Moncrieff, Bart., Dean of Faculty, Patrick Robertson, Mark Napier, and David Milne, Esqrs.

Counsel for M'Dougal, Henry Cockburn, Duncan M'Neil, Hugh Bruce, and George Patton, Esqrs.

Agent for both pannels, James Beveridge, Esq. W. S. one of the agents for the poor.

We understand that the learned counsel above named, all very handsomely gave their services to the prisoners gratuitously.

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Having thus given a faithful account of the judicial proceedings in this important trial, it will not, we trust, be an unacceptable supplement if we subjoin some particulars connected with it, which might indeed have been interwoven in the progress of the foregoing report, but which would have only incumbered the technical details that are, of course, most inte-

Lutenor Poix.t T. Clerk Sc.

HELEN McDOUGAL

as she appeared at the Bar
taken in Court

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resting. To these particulars we may add such other facts connected with the nefarious system of murder which had been organized among us as have transpired since the trial; and in an affair which has excited the most extraordinary sensation ever perhaps known in Scotland, in reference to crimes of a private nature, it seems desirable not only to give a complete and connected account of them, but to collect and embody along with it, in a single record, the various expressions of public feeling, as these have come forth through the press in all parts of the country.

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From the whole evidence there appears scarce the shadow of a doubt that Helen M'Dougal was equally involved with the other in this scheme of systematic murder. She did not put forth her hands because this was not the part which she was best fitted to perform; but that she was privy to what was about to take place is clearly made out, by her reluctance to part with the woman Campbell, evidently from the fear of losing her prey; and that she was an accessary after appears from what she said to the Grays, that if they would conceal what they saw, it would be worth to them L.10 a-week. This is proved by the testimony of those witnesses, which is above all challenge. That it should have been necessary to set at liberty a wretch of this description, stained with such foul crimes, to begin anew her career of iniquity, cannot be sufficiently regretted.

We may mention also as a singular instance of the obliquity of the human understanding, or at least of the effect produced upon some by the Dean of Faculty's powerful speech for Burke, that two of the Jury by whom he was tried were of opinion that the Prosecutor had not made out

his case against that unhappy man, and consequently were for returning a verdict of Not Proven in his case as well as that of M'Dougal. No one who attended to the evidence as it was led, or who has examined it since, has been able to discover upon what ground such a verdict was returned even in the case of the female pannel; but had the opinion of these two gentlemen prevailed, and the charges against Burke been found not proven, Justice might have thrown away her balance and broken her sword, and the Prosecutor might well have despaired of ever again obtaining a verdict upon a charge of murder. Happily nothing so utterly monstrous as this occurred. Justice has received one victim, but she will not be satisfied with this solitary sacrifice. Others yet remain to be claimed, whose hands are dyed in blood, and whose criminality is not either in law or in morality inferior to that of the unhappy man whose days are numbered, and who is doomed to expiate his manifold crimes on the scaffold.

The intense sensation which has been excited among all classes by this extraordinary case, far exceeds what we have ever witnessed on any former occasion. The story, when it was first rumoured, created the deepest agitation. But it was treated by many as an idle tale, framed to feed the vulgar appetite for the marvellous, and too horrible to be believed. Nor need we wonder that the most credulous should have been startled by the recital of such atrocious cruelty, which far surpasses any thing that is usually found in the records of crime. The offence of murder, dreadful as it is, is unhappily too familiar in our criminal proceedings; but such an artfully contrived and deliberate scheme, such a systematic traffic in blood, was certainly never before heard of in this country. It is a new passage in our domestic history; it is entirely out of the ordinary range of iniquity;

and stands by itself, a solitary monument of villany, such as would almost seem to mark an extinction in the heart of all those social sympathies which bind man to his fellow-men, and even of that light of conscience which awes the most hardened, by the fear of final retribution. In works of fiction, no doubt, where the writer, to produce effect, borrows the aid of his imagination, we have accounts of such deeds, perpetrated, perhaps, in the secret chambers of some secluded castle, or in the deep recesses of some lone and sequestered haunt. But the striking and awful peculiarity of the present case is, that we have laid open, not in the high-wrought scenes of romance, but in the sober records of judicial inquiry, a den of murderers in the very bosom of civilized society, in the heart of our populous city, amid the haunts of business and the bustle of ordinary life, who have been, if we may so speak, living on their fellow-creatures as their natural prey. Words would fail to convey an idea of the sensation that was excited in the Court as in the progress of the trial the horrid details of this conspiracy were gradually unfolded; the craft by which the unhappy woman was lured to her destruction; the artful preparations for the bloody tragedy; and the cool decision and ferocity with which, when the fitting time was come, the murderer sprung upon his victim and extinguished life in a few moments. At every new view of this unhappy story, it assumes a deeper dye. What a fearful character does it present of cunning and violence, the true ingredients of villany! From first to last we see the same master spirit of iniquity at work to contrive and to execute. We see no doubt, no wavering, no compunctious visitings of the conscience, nor any soft relenting; but a stern deliberation of purpose, that is truly diabolical; and it is fearful to reflect, that a person capable of such crimes should have been so long haunting our streets, mixing in society, and coolly selecting subjects for his sanguinary trade.

Among the other peculiarities of the present case, we may remark, that such acts of savage atrocity are rather out of place in so civilized a community as that in which we live. They are not in unison with the moral tone of society. Crimes of violence are the natural product of barbarism. They grow up to frightful maturity in that congenial soil; and all savage communities are accordingly distinguished by cruelty, and the most profligate indifference to human life. As mankind improve, and as knowledge is diffused, those crimes disappear, and are succeeded by others sufficiently odious, no doubt, but still of a less atrocious nature. The same process by which we cultivate the intellectual faculties would seem also to open the heart to more humane sentiments and to more kindly feelings. But however we may improve society and diffuse instruction, there is still a vast expanse of ignorance, poverty, and vice, which we may lessen by active efforts, but which we cannot altogether remove, and it is in this intellectual desert, if we may so speak, where nothing that is humane, enlightened, or moral, ever springs up to refresh the eye, that crimes are produced. Under the influence of ignorance all the best affections of the human heart wither and lie dead; and it is chiefly from those who are within its sphere, that the ranks of crime are recruited; and that, occasionally, such wretches arise as Burke or Hare, or their female associates, who distance all competitors in iniquity, and shock the feelings of the age by their enormous crimes. It will generally be found that these criminals are not only wicked and immoral, but that they are uneducated and grossly ignorant; living, no doubt, in a civilized community, and with certain habits of civilization that they cannot avoid, but still in respect to mental cultivation, scarcely, if at all, raised above the level of savages. Hence the vast importance to society of spreading knowledge, of bringing all ranks under some process of men-

tal tuition, and of establishing schools where instruction and morality, for they go together, are retailed at a cheap rate. It is only in this way that we can ensure the decrease of crimes; and more especially of such atrocious crimes as have been recently perpetrated.

In the course of this trial, some allusion was made to the interests of science, to which, in the impressive address of Lord Meadowbank, previous to passing sentence, there is a conclusive reply, and we would only remark, that the more this subject is agitated, the greater will be the prejudice excited; nor can any law be made that would be of the least service. The subject, involving as it does so many critical considerations, is far too delicate to be touched by act of Parliament; besides, that the popular ferment, that would thereby be raised, would multiply the present difficulties tenfold. We cannot possibly comprehend how Parliament could interfere in this matter, or how any act could be framed to make that legal which is at present illegal. Science, in short, may be injured, but it cannot possibly be benefited by any public agitation of the subject.

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During the whole course of the trial Burke maintained the most perfect self-possession and tranquillity, even when some parts of the evidence that made others shudder came out against him. He conversed occasionally with M'Dougal, and more than once we saw him smile at such parts of the testimonies as probably appeared to him not to be "the whole truth."

In the course of his trial we understand that Burke, about four o'clock, asked when he would get dinner, and

being informed it would be about six, he begged that he might have a biscuit or two, as he would lose his appetite before that time. Both pannels ate bread and soup heartily; and although they displayed no external marks of inward emotion, they frequently, especially the woman, took copious draughts of water.

Before the jury retired, and during the time they were enclosed, Burke endeavoured to prepare the mind of M'Dougal for her fate, as, from the address of the Lord Justice-Clerk, he supposed she would be found guilty; in the view of which he gave her directions how she should conduct herself, desiring her to look at and observe him when the Lord Justice-Clerk was pronouncing sentence. When the jury returned with their verdict, they mentioned first that they found the libel against M'Dougal Not Proven. He was immediately heard coolly to exclaim, "Nelly, you are out of the scrape." After the Lord Justice-Clerk's address to him he was very anxious that permission should be given to M'Dougal to remain a day or two in the Lock-up-house, for her personal protection.

The advocates for the Crown and the pannels spoke in their addresses to the jury nearly six hours; and, altogether, the trial was one of the most interesting we ever witnessed, by the horrors which the investigation disclosed, by the intense interest which pervaded the whole assemblage, and by the picturesque and singular appearance of the scene. This was not a little heightened by the expedient to which the greater part of the audience were obliged to resort for self preservation against the inclemency of the weather. By orders from the Court a large window was thrown open as far as it could be done, and a current of cold damp air beat, for twenty-four hours, upon the heads of the

whole audience. How far this was necessary or considerate we presume not to say; and we trust no fatal consequences will ensue; but we must be permitted to express a hope that some plan will be adopted for preventing a repetition of a similar occurrence—such an occurrence as last winter, on Mrs. Smith's trial, endangered the life of one of our most valuable and esteemed advocates. In the present instance, the greater part of the audience being Advocates and Writers to the Signet in their gowns, these were wrapped round their heads, and, intermingled with various coloured handkerchiefs in every shade and form of drapery, which gave to the visages that were inshrouded under them, such a grim and grisly aspect as assimilated them to a college of monks or inquisitors, or characters imagined in tales of romance,—grouped and contrasted most fantastically with the costume of the bench and crowded bar engaged in the trial.

The personal appearance of Burke and M'Dougal has been already mentioned; and that of Hare has also been described in terms sufficiently glowing by the Counsel for M'Dougal. Hare is indeed one of the most squalid-looking wretches we have ever seen; and when he gave his evidence, he had a sinister expression in his look which made his presence peculiarly revolting. After being warned not to answer any questions which might criminate himself, except with regard to the murder of Docherty, instead of answering Mr. Cockburn's interrogatories, he repeatedly gave a silent diabolical nod with his head; and on his way from the witness-box to the Lock-up-house in the custody of the macer, he had a look of evident satisfaction in his imagined escape; and he even chatted and conducted himself with the most hardened levity. He repeatedly, when giving his evidence, distinguished Docherty by the contemptuous appellation of "the old wife." His appearance betokens the

greatest effrontery, while it is altogether that of a low blackguard; and all his demeanour fully justifies Mr. Cockburn's account of him as an embodiment of "penury and profligacy." His wife is a short, stout, round-faced and fresh-complexioned personage, but withal has a look of coarse and determined brutality, fitting her to be a suitable consort to such a mate. From their demeanour and aspect it is perhaps less to be marvelled at that some of the jury, led away also by the eloquence of the Dean of Faculty and Mr. Cockburn, should have been unwilling to convict even Burke on the testimony of such wretches to whom falsehood seemed more familiar than truth.

The honest Irishman Gray, and his wife, to whom alone the public are indebted for the disclosure of this base murder, and the exposure of the gang of miscreants engaged in this trade of blood, forms an interesting contrast to the party with whom their miseries made them for a time bed-fellows. And when it is known, that in addition to the temptation for concealment which their poverty and the promised reward for secrecy supplied, there was the additional one of screening a near relation, their honesty assumes a higher character. Hitherto they have not met with the applause nor the reward to which their integrity and valuable services entitle them. They both gave their testimony with a clearness and precision, and in a manner which bespoke a clear conscience, and no one could see and hear them without sympathising sincerely with these poor but honest people, whose destitution subjected them and their child to repose on the bloody bed of straw, on which perhaps they were destined, at no distant period, to have perished, if they had not been providentially the means of bringing those hidden deeds to light. It has been well observed, that the fiendish gang gave a powerful though unwilling testimony to

their uncorrupted honesty when they found it necessary to put them out of the way until their deeds of darkness were perpetrated.*

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Blame has sometimes been cast upon the periodical press for raising a popular excitement by exaggerated statements. In this case, no such charge could be made. The press, up to the time of the trial, remained nearly silent, and the dreadful and revolting crimes then divulged were beyond the conceptions almost of the most fertile imagination. Popular feeling was however excited; and the interest universally expressed, has seldom been equalled in intensity. At an early hour in the morning, the avenues to the Court were crowded; judicious arrangements had been made for the jurymen, witnesses, and those who were concerned, procuring admittance by private entrances; and due precautions used to prevent a rush and inconvenient crowding into the Court. Still, however, the court-room, which is small, was excessively crowded; and although very few were suffered to pass the cordons of policemen, who guarded the approaches, it continued in this state till the result was known. The usual good nature and sympathy towards a criminal were laid aside in this instance, and a universal desire seemed to pervade all classes, that both pannels should be convicted, and a regret that Hare also and his guilty partner could not share the same fate. All day, the

* Several benevolent individuals have interested themselves in the behalf of Gray and his wife, and as it may be gratifying to the hearts of many to relieve the virtuous in distress, the publisher of this will most cheerfully receive subscriptions for Gray's behoof; and the public are earnestly intreated to mark their sense of this poor man's upright and correct conduct when surrounded with tempters and temptations to which a less manly and honest nature might have yielded!

streets in the neighbourhood of the Parliament Square were thronged by anxious groupes, who eagerly questioned those proceeding from the Court as to the progress of the trial, and their reports speedily found their way to the remotest parts of the city. The imperfect rumours of the objection made to the relevancy of the indictment, and the subsequent account of its being confined to one charge, seemed to create a fear that the criminals were about to elude the grasp of the law on some technical grounds. Had such been the case, a popular tumult from the reckless, unthinking part of the assemblage appeared an inevitable consequence. Towards the evening, the numbers increased; and about nine o'clock, a gang of blackguard men and boys proceeded to Dr. Knox's class-room, in Surgeons' Square, for the purpose of destruction. By this time the high constables, and the other bodies of constables, joined to the ordinary police force, were in readiness, and the steady front that was exhibited quickly induced the assailants to withdraw. Some of the mob proceeded to the college, and broke a few panes of glass in the windows of Dr. Monro's class-room and the neighbouring rooms; but the arrival of a party of constables and policemen speedily stopped their proceedings here also. During part of the night, the concourse continued; but as the inclemency of the weather continued, and the night advanced, without bringing a prospect of a speedy conclusion, the people gradually dispersed. The hour to which the proceedings were protracted, allowed time for them to reassemble next morning, and with renewed patience wait the conclusion. Hasty inquiries about the result were made by those citizens who had spent the night comfortably in bed, and were now proceeding to their places of business, of those coming from the direction of the Court, and whose jaded and pale appearance betokened that they had either been employed in some capacity, or had been so fortunate

as to obtain a hearing of the interesting proceeding at the expense of a night's rest. The citizens of Edinburgh are by no means blood-thirsty, and, on ordinary occasions, would rejoice to learn that a fellow-being had escaped the fearful death that the law adjudges to great criminals; but in this case there was expressed a universal feeling of satisfaction, and if at all alloyed, it was by the knowledge that the woman, who was considered equally guilty, should not have been equally punished. It seemed as if the enormity of their offences had stopped the channels of pity, and an unanimous requisition for vengeance was made by a whole population.

The offices of the newspapers published on that day were beset by eager purchasers, and the presses kept constantly at work could scarcely supply the unceasing demand. It has been computed, that eight thousand copies, in addition to their ordinary circulation, were sold in one week by the Edinburgh newspapers alone.

A general outcry has been raised for the blood of the miscreant Hare, and if he, who is believed to have been the author and principal actor in so many murders, be suffered to escape, it will be to the disappointment of the public; every confidence, is, however, felt in the Lord Advocate. He, it is understood, is still actively prosecuting his inquiries, and as long as the ruffian and his wife are detained in custody, hopes are cherished that it is with a view of putting them upon their trial. Discussions have taken place as to the policy and legality of such a course, some of which will be found in the subsequent parts of this work. It is not our part to decide upon the question, but apparently nothing will allay the public ferment until either a resolution to sift the matter regarding them to the bottom be promulgated, or some official annunciation of its impracticability be made public.

### CONDUCT IN LOCK-UP-HOUSE.

After the trial, Burke and M'Dougal were removed to the Lock-up-house; Hare and his wife followed, and were lodged in different apartments. Burke had hardly been seated, when looking round, he said to the officers who had him in charge, "this is a —— cold place you have brought me till." The officers had been long inured to moral turpitude, to bacchanalian frenzy, and wickedness of every description; but lying, as he then was, under sentence of an ignominious death, for a crime of unparalleled atrocity, his unseemly levity struck them with horror, and one of them rebuked him sharply for his conduct. Burke stated, that from the moment he heard that Hare had been admitted an evidence, he was aware that escape was impossible, and he was prepared for the worst. It was stated to him, that as he had for some time lived a life of unexampled wickedness, a fair confession of his crimes, and an accurate account of his life, might be read with interest, and be of service to mankind; he replied that he would make no confession whatever till he had consulted his priest on the subject. He stated, that he considered Hare was the most guilty of the two; for, said he, "he murdered the first woman, he persuaded me to join him, and now he has murdered me, and I will regret to the last hour of my existence that he did not share the same fate." One of the officers stated, in Burke's hearing, "I think I could never wish to see that man forgiven who could murder that poor harmless good-natured idiot, Daft Jamie." Here the wretched man stared intently on the officer, and replied with peculiar emphasis, "My days are numbered—I am soon to die by the hands of man—I have no more to fear, and can now have no interest in telling a lie, and I declare that

I am as innocent of Daft Jamie's blood as you are. He was taken into Hare's house, and murdered by him and his wife; to be sure I was guilty in so far, for I assisted to carry the body to ——, and got a share of the money."

He stated, in answer to direct questions of course, that it was the general plan to look after poor and wretched strangers, who were not likely to be inquired after by any person of consequence; but promptly refused to state, till he had consulted his priest, whether or not he had been concerned in any other murders than those with which he was charged in the indictment, or whether he was in the practice of going to the country for the purpose of enticing poor wanderers to his house. He gave rather a different account of the mode in which he put the poor woman Campbell to death, from that given by his accomplice Hare. He stated, that after the sham fight was over, she was thrown down on her back; that Hare seized her by the legs; that he forced the mouth of a bottle into her throat, and poured down whisky till she was choaked or nearly so, and that he himself then sat down upon her, stopping up her nose and mouth so completely that she died in a few minutes. About three o'clock, he inquired if he might be permitted to offer up a short prayer; his request was instantly granted, and the unhappy man prayed with great fervour for a few minutes. In the course of his prayer, he implored forgiveness for the wicked life he had led, and more especially for the great crime for which he was about to suffer on the gibbet. He also entreated that his wretched partner in guilt might be brought to a full sense of the crimes of which she had been guilty,—that she might repent, and atone, as far as it was in her power to do so in this world, by a life of quietness, piety, and honest industry. At his request, the officer read about half a dozen chapters of the Scriptures, to which

he paid great attention, occasionally saying, "That passage touches keenly on my crimes." When preparations were making for his removal to the jail on the Calton-hill, he requested the officers to visit him in the prison. On being informed that there would be no admittance to him, he said, "Well, well, though I should never see you again, you will see me on the 28th January, at the head of Libberton's Wynd. I have now only five weeks to live, and I will not weary greatly for that day." While in the Lock-up-house, he expressed the greatest dread of the heavy irons in the condemned cell. On reaching the jail, however, he was secured in the usual way, and every possible precaution will be used lest he should in some degree defeat the ends of justice by suicide, and add self-destruction to the appalling list of murders to which he has been accessary. No person has since been permitted to hold any conversation with him, except his spiritual instructors. Though he has been brought up in the Roman Catholic faith, and has intimated his resolution to die a member of the church, in a belief of whose principles he has been educated, he receives the visits of the Rev. Messrs. Porteous and Marshall, with the same pleasure he does those of the Rev. Gentlemen of his own persuasion. He pays due attention to their exhortations—reads the Bible or some religious book constantly in their absence, and is making every preparation for the great and awful change which he must soon undergo.

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The woman M'Dougal, upon her release from the Lock-up-House, in which she had been detained for two days for her personal protection, had the audacity or folly to proceed to her old haunts in the West Port, and even to venture to the street. She was quickly

recognised, and a mob collecting, was in danger of being roughly handled. Fortunately for her, the proximity of the place to the police watch-office, enabled protection to be immediately afforded, and with some difficulty she was conveyed to the watch-house. The mob increased to a somewhat alarming size for the slender force that was stationed there, and the officers had to resort to an expedient to prevent an assault. A ladder was placed at a back window, by which it was pretended that she had descended; this induced the populace to depart, when she was escorted to the head office. Since then she has been several times exposed to similar danger, and as often rescued by the police officers. Finding the lower classes too much exasperated to allow her to live in safety in Edinburgh, she left it, and proceeded to the village of Redding in Stirlingshire, where her father is now settled. It is said that she has since left that village, and is living in Glasgow with Constantine Burke.

On Sunday, after her confinement in the Lock-up as formerly detailed, this wretched woman related a horrible, but a plausible story, to one of the subalterns of authority. She stated, that one night Burke and Hare were carousing in one of the apartments of Hare's human shambles, on the profit of a recent murder. In the midst of their unhallowed orgies, Hare raised his hand, and in a fit of fiendish exultation, stated that they could never want money, for, when they were at a loss for "a shot," (a body for dissection,) they would murder and sell, first one and then the other of their own wives. Being in the adjoining apartment, the females overheard, and were petrified by this horrible resolution, as they had every reason to be assured that the monsters would certainly carry it into effect. A discussion of some length ensued, and Hare finally succeeded in persuading Burke to consent,

that when the dreaded emergency did arrive, M'Dougal should be the first victim. Hence, this woman may be supposed to have run as imminent a risk of a violent death by the hands of her inhuman husband, as she did of an ignominious end on the gallows.

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ANOTHER ACCOUNT.

When Burke was removed from the Court-room to the Lock-up house, he was considerably agitated, and throwing himself upon his knees, addressed a prayer to God, whom he had so grievously offended. During the rest of the day he was composed, and even spoke cheerfully to the policeman who had the charge of him. He expressed his joy at the acquittal of M'Dougal. He also said that the Irishwoman was murdered, not by him, but by Hare, in the manner described in Hare's testimony; but admitted that, during the shocking operation he held her hands. He confessed that he had participated in many more murders than those he had been indicted for; and said, that after his mind was composed, he would make disclosures which would implicate several others besides Hare and his wife, in the same crimes as those for which he was doomed to die. He was asked how did he feel when he was pursuing his most horrible avocation? He replied, that in his waking moments he had no feeling, but that when he slept he had frightful dreams, which previously he had been unaccustomed to. The fact is, that when awake, by means of ardent spirits, he steeped his senses in forgetfulness; and his excessive use of spirits accounts for his absolute penury at the time of his being apprehended. He expressed a wish that one of his Counsel, whom he mentioned, would call upon him, that

he might furnish him with notes of his life and adventures, as he was desirous to have his history published. At night he had short fits of sleep, during which he raved, but his expressions were inarticulate, and he grinded his teeth in the most fearful manner. Whenever he awoke he was in a frantic state, but always recovered his composure; and in the course of the evening he read two chapters of the Bible. At two o'clock on Friday morning he was removed in a coach to the Calton Hill Jail, and put upon the gad.

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### CONDUCT IN JAIL.

Burke since he went to Jail has been remarkably composed and devout. He has observed that he is by no means a bigot in religion; that besides Popish churches, he had, when a soldier, attended Presbyterian, Episcopalian, and Methodist ones, with the peculiar tenets of all which he appears to be perfectly conversant. He says that he has received instruction from good men of every faith; and that "real repentance and a strong belief," are sufficient to ensure salvation.

He mentioned at first that he would wish to have a clergyman to attend him; and upon being asked of what persuasion he would like him to be, expressed indifference upon that point, but wished only one who would point out the way to salvation. He received the visits of the Reverend Mr. Marshall, minister of the Tolbooth Church, with whose ministrations he expressed himself much satisfied, and of the Reverend Mr. Porteous, chaplain of the Jail. One day Mr. Marshall, and the Reverend Mr. Stuart, Catholic priest, called to see him; and upon being asked

which he would wish to converse with, he replied that he would have both; he has also received visits from the Reverend Bishop Paterson, and the Reverend Mr. Reid, Catholic priests; latterly, since the visits of clergymen of his own persuasion, he has declined those of Mr. Marshall, and they have consequently been discontinued. Whether it be that the horrors of his wretched death have been mitigated in the contemplation by the familiarity with it, which time must produce after the first shuddering sensations have passed away and left a comparatively apathetic calmness, certain it is, that he now displays less concern about the sin than he did during the first few days; he is penitent because his crimes have been detected and punishment awarded; but were not this the case, in all probability he would think little of the heinousness of the offences.

He continues to be particularly anxious that his associate Hare should be brought to trial, and receive the punishment he merits for his misdeeds, but asserts that it is not from any vindictive or revengeful feeling that he cherishes towards him, but from motives of humanity. When conversing lately upon the subject, he stated his perfect conviction, that if Hare should again be let loose upon society, he would recommence his murderous career when he wanted money; at the same time he declared that he was afraid the spirits of his future victims would reproach him in the regions of bliss, for not having taken means to get Hare executed, and thereby preventing their violent and untimely deaths.

A day or two after conviction he sent his watch and what money he possessed to M'Dougal; and when informed that his mission was executed, expressed satisfaction, and observed, "poor thing it is all I have to give her, it will be

of some use to her, and I will not need it." He speaks in terms of great affection towards her, and anticipates that she will be allowed to have an interview with him before he suffers.

He is free and communicative to those who are necessarily about him, though strangers coming from motives of curiosity are excluded. Had liberty been afforded to the turnkeys to admit those who came, they might have cleared a handsome sum: so much as two guineas has been offered for admittance. He is watched day and night: and throughout the night it is ascertained every half hour that the watchman does not slumber at his post. Any thing by which self destruction could possibly be effected is sedulously kept out of his way.

He is afflicted with a cancer which has been incorrectly stated to have been produced by a bite from Daft Jamie. It is of long standing, and distresses him much, and would, in all probability, have ended his days at no distant period, if he had escaped the gallows; and there is little doubt that Hare would have had no compunction in transferring his comrade's body to the dissecting rooms, as well as those he had so frequently trafficked in. This sore keeps him in great pain, and along with some of the adjuncts of prison fare and treatment, tends to divert his mind from his spiritual state to his bodily discomfort. The condemned cell, as he observed, is but a comfortless place, cold and cheerless and dreary, where hope, at least in such a case as his, never enters to enliven it; chained in such a place to the gad—much confinement to bed is necessary to produce a little warmth, especially at this season; while coarse bread and cold water are but unpalatable food for one who was accustomed to spend his profligate gains in de-

bauchery and drunkenness. The very deprivation of ardent spirits must be felt as an intolerable grievance, and while it is properly withheld, food, that could in some degree supply the craving for stimulants that such a long course of indulgence cannot fail to have produced, might surely be afforded. It is not from any notion that his appetite should be pampered that we mention this, but from a desire that a man in his awful situation, standing on the brink of eternity, and to whom a few calm days may be of eternal import, should not have his mind distracted by any needless bodily mortifications. The law in this part of the island humanely allows a period for the purpose of giving an opportunity of repentance to the criminal, and time to make up his peace with God, while it at the same time annexes conditions which in some degree renders the indulgence nugatory for the purpose. The statute is a British one, and probably the legislators did not contemplate that an interval of six weeks should be spent upon this hard regimen.

Captain Rose, the Governor of the Jail, does all that humanity dictates to alleviate his situation.

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### HARE'S BEHAVIOUR.

When the officers were removing Hare from the Court-house to the Calton-hill jail, he is reported, to the horror even of those men accustomed to vice in its most hardened and depraved forms, to have been seized with a fit of diabolical glee at his fancied escape from justice. There is something awfully appalling in the merriment of a being who a few minutes before, had, to save himself from a merited fate on the gallows, by his testimony consigned his guilty partner to an ignominious death,—the comrade too

whom he had lured to the commission of the crimes, and instructed in the manner of executing them. It might even have been supposed, that the recollection of the appearance he made in the witness' box, when he could only escape from the avowal of numberless murders, by skulking under the privilege of his situation, would have prevented his unseasonable mirth. His wife and he have since been kept in confinement, and inquiries have been instituted, apparently for the purpose of attempting to prove some of the numerous charges of murders alleged against him, which, although unauthenticated and unproved, have assumed such a shape as to be worthy of official investigation.

Stories have been sent abroad of his anxiety to shun the public gaze, and muffling himself under the bed-clothes when visited by the authorities. Usually, however, he shows no such indisposition to publicity; but amuses himself in the airing ground attached to the ward, along with the other prisoners confined in it, and exhibits no disinclination to be looked at. He has the appearance of the greatest effrontery; and whether from design or apathy, appears unconscious of his being remarkable, or that there is any thing about him that could satisfy curiosity. He is generally disliked by the prisoners, who, whatever may be their crimes, naturally share in the universal aversion that causes any person, preserving even a small portion of the ordinary feelings of humanity, to shrink from contact with a deep-dyed murderer. Joined to the horror of such companionship, another means of annoyance accompanies Hare; the ward is the greatest object of attraction to the numerous visitors to the jail, and a groupe is generally waiting his appearance; the other prisoners are thus either prevented from taking their usual exercise, or subjected to the gaze of the assemblage. To obviate this as much as possible, they are in the custom of

shoving Hare forward, and forcing him to satisfy the public curiosity, and thus rid them of the annoyance for a season.

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It gives us no small pleasure to be able to inform the public, that the Lord Advocate has caused inquiries respecting these atrocious murders to be resumed with renovated zeal and activity; and it is said that Mr. Peel, Secretary of State for the Home Department, has communicated with his Lordship, requesting that the matter should undergo a complete investigation. On one day no less than seven individuals, including four resurrectionists, and three persons who were in the habit of frequenting Hare's house, were examined; the different anatomical lecturers and various medical gentlemen have likewise been examined. We may also mention that one of the macers of the High Court of Justiciary has apprehended a woman in Glasgow, who had been servant to Hare, and there are no slight grounds to hope, that she and the others will unfold a tale of horror, which will cause a jury to consign that acknowledged murderer to the ignominious death he deserves. He is beginning to get remarkably uneasy in his confinement; and his anxious inquiries at the turnkeys in the jail, the decline of his health, and the dogged silence he maintains, evince that he is labouring, as he well may, under the most serious apprehension.

Public clamour is also loud against him and his wife; and every one is anxious, if it were at all possible, that criminal proceedings should be commenced against them. We have no doubt, however, that those who have so successfully investigated and brought to light those foul proceedings, will anxiously deliberate, and firmly resolve, on what is best

to be done. They have before them all the evidence, and to their sound discretion the whole matter may be safely left.

It is stated upon good authority, that measures have been taken, with the sanction and by the authority of the nearest kindred of James Wilson, commonly called "Daft Jamie," for investigating into the cause and manner of his death, and, if possible, bringing those concerned in his alleged murder to punishment. For this purpose, an able and active agent has been employed, and Mr. Jeffrey, we understand, is already retained as senior counsel for the intended prosecution, while other eminent counsel have also been retained.

The public at large are making anxious and universal inquiry after Paterson. This man, instead of checking at once the course of murder, and bringing the murderers to justice, encouraged the homicides and profited by the horrid traffic. Had he procured only such bodies as were indispensable for his employer's hall, dire necessity might have been urged as a slight palliation of his odious conduct, but he enjoined the assassins to "procure as many subjects as they could," "asked no questions," and it is beyond dispute, that he offered the body of the woman Docherty to an eminent lecturer in town for L.15, who spurned the proposal with merited indignation and contempt. It was proved on Burke's trial that he never paid more than L.10 for a body, and had this gentleman accepted his offer, here was at once a profit to Paterson of L.5. It will ever be regretted if no severer punishment than universal reprobation and abhorrence overtake this wholesale dealer in the bodies of his murdered fellow subjects. He has not absconded, as has been reported, though discharged from Dr. Knox's service; he is still in Edinburgh.

## BURKE'S AND HARE'S HOUSES.

Great numbers have been attracted to the habitations of Burke and Hare, where the slaughters were carried on. Mr. Alston, the witness on the trial, who has the key of Burke's den, has been much annoyed by the multitudes who have beset him for admission. He has somewhat unusual punctilios against making profit by the transaction, and, not unreasonably, is unwilling to be farther troubled. Indeed, little damage could be done now though the doors of both houses were thrown open, and the public freely admitted; the places are completely dismantled, and only the bare walls remaining. The only danger to be feared is, that the eagerness to procure reliques, which has been so strangely manifested, should induce some individuals to break up the doors and windows. Great anxiety has been shown to be possessed of some article or other which belonged to the peerless criminals; one man boasts that he has got Burke's hammer; another that he has obtained that invaluable article Hare's whisky bottle; a third has had the marvellous good fortune to secure Burke's cane, while others have actually carried off small pieces of wood, in order to be converted into snuff-boxes, or some articles of fancy. Hare's furniture, if the trumpery sticks that decorated his walls and supplied the place of furniture can be called such, has been safely deposited in an adjacent cellar, which is securely padlocked, and all chance of a curiosity-monger getting access to the precious store excluded. In the late case of Corder, the rope that hanged the criminal was said to have been sold at the rate of a guinea per inch, and if the Edinburgh hangman be as well acquainted with the art of turning the penny as his southern prototype, he may possibly contrive to supply as large a demand as the taste of the public creates at the same rate,

BURKE'S HOUSE FROM THE BACK COURT.

A. Burke's Window.

B. Back entrance, where the Bodies were brought out.

every inch, of course, being a genuine part of the cord by which Burke was suspended.

A sagacious personage, who is troubled with none of Mr. Alston's scruples, observing that Hare's house was an object of great attraction, rented it for a specific time, and shows it for a trifle to the visitors. His speculation will probably be a profitable one, as scores are frequently waiting their turn for admittance.

Both places seem admirably adapted for the deeds of darkness that were carried on in them; a happier choice could scarcely have been made, although the occupation of them had been the result of design instead of accident, as it certainly was in Burke's case. Situated in the heart of a swarming population, and the resort of every sort of vagrant, they are still retired and apart from observation. In approaching Burke's you enter a respectable looking *land* from the street, and proceed along a passage and then descend a stair, and turning to the right a passage leads to the door, which is very near to Connaway's and almost directly opposite to Mrs. Law's; a dark passage within the door leads to the room; to this passage the women retreated while the murder was committed. The room is small, and of an oblong form; the miserable bed occupied nearly one end of it, (that next the door,) so that the women must have almost stepped over the poor old woman, while Burke was stifling her, when they went into the passage. For some days after the trial, every thing remained in the position in which it had been when they were arrested, and presented a disgusting picture of squalid wretchedness; rags, and straw, mingled with implements of shoemaking, and old shoes and boots, in such quantities as Burke's nominal profession of a cobbler

could never account for. A pot full of boiled potatoes was a prominent object. The bed was a coarse wooden frame, without posts or curtains, and filled with old straw and rags. At the foot of it and near the wall was the heap of straw under which the woman Campbell's body was concealed. The window looks into a small court, closed in by a wall. At the top of the stair leading down to the room is a back entrance from a piece of waste ground, across which the body was conveyed by M'Culloch. There are several outlets from it. Nobody can, however, discover where the cellar is situated in which it is said the subjects were concealed; they were apparently conveyed direct from the shambles to the dissecting-rooms.

Hare's house is a little further west, in a dirty, low, wretched close called Tanner's Close, which also opens off the West Port, from which it descends a few steps. It has likewise a back entrance, which communicates with the waste ground behind Burke's. It is a dwelling of more pretension than Burke's, being *self-contained* and possessing three apartments. It is a one storey house, and though the interior is liable to be observed by any passer-by from the close, it is not immediately connected with other dwellings. It was, before the trial, completely divested of furniture: when occupied, it was fitted up as a lodging for beggars and other wanderers, and "beds to let" invited vagrants to enter, frequently to their destruction. The outer apartment is large, and was all round occupied by wretched beds; one room opening from it is also large for such a place, and was furnished in the same manner. So far from any concealment being practised, the door generally stood open, and we have mentioned above that the windows were overlooked by the passengers in the close; but there is a small inner apartment or closet, the window of which looks only upon a pig-stye and dead wall, into which it is asserted they were accustomed to

conduct their prey to be murdered. No surprise could have been excited by cries of murder issuing from such a riotous and disorderly house, but it was unlikely that any could reach the ear from the interior den; and even though they had, the house might have borne a fair semblance in front, while the murderous work went on behind. In the inner apartment Burke used to work when a lodger in Hare's, when he did work, which was seldom.

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When we consider this most singular and atrocious conspiracy, and the characters of the different actors in it, as we understand them to be, it should seem as if they had each of them their allotted parts in the bloody drama. Hare, as far as we can learn, is a rude ruffian, with all the outward appearance of a ruffian; drunken, ferocious, and profligate; and far likelier to repel than to ensnare any one by a specious show, which he is quite incapable of assuming. He appears, however, to have been the more deeply designing of the two; and to have over-reached his associate, Burke, whom he succeeded in always thrusting forward, with a view, we have no doubt, of turning short upon him, as he has done at the last, and consigning him to the gallows, when this should be necessary, in order to save himself. Burke was indeed the only one of the two qualified to manage the out-door business of the copartnery, and he it was, accordingly, who always went out to prowl for victims, and to decoy them to their destruction. In his outward manners he was entirely the reverse of Hare. He was, as we learn from good authority, quiet in his demeanour; he was never riotous; was never heard cursing and swearing; and even when he was the worse of drink, he walked so quietly into his own house, that his foot was

scarcely heard in the passage. He was of a fawning address, and was so well liked by the children in the neighbourhood, that each was more ready than another to do his errands. The riots which often occurred in the house, and in which Hare always bore a conspicuous part, were, there is every reason to believe, got up on purpose, either when they were in the act of committing murder, or that the neighbours might not be alarmed at the noise which inevitably accompanied the mortal struggle between them and the unhappy inmates whom they had enticed into their dwelling.

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## MURDER OF MARY PATERSON.

The first murder which was charged against Burke, although it is surmised that several had been committed before that time, is that of the girl Paterson, who was about eighteen or twenty years of age. It appears that this girl, with one of her associates, Janet Brown, had been lodged in the Canongate Police Office on Tuesday night, the 8th of April. They were kept till six o'clock next morning, when they went to the house of one Swanston, to procure spirits. Here they were met, for the first time, by Burke, who asked them to drink. He afterwards prevailed on them to go with him to breakfast, and gave them two bottles of spirits to carry along with them. They accompanied him to Constantine Burke's house, in the Canongate. This man was a scavenger, and went out at his usual hour to his work. After they had been in the house for some time, Burke and his wife began to quarrel and to fight, which seems to have been the usual preliminary to mischief. In the midst of this uproar,

Hare, who had been sent for, and who was a principal agent in this scene of villany, entered, and in the mean time Janet Brown, agitated seemingly, and alarmed by the appearance of violence, wished to leave the house, and to take her companion along with her. By this time it was about ten o'clock on Wednesday morning, and Paterson was asleep in one of the beds, totally unconscious of her approaching fate. The other girl went out, and was absent about twenty minutes. When she returned she asked for Paterson, and was told that she had left the house. By this time she was murdered. She came back in the afternoon in search of her, and received the same answer. Burke had availed himself of the short interval of twenty minutes, during which her companion Janet Brown was absent, to execute his horrid purpose when she was asleep, by stopping her breath; and that very afternoon, between five and six o'clock, her body was taken to the dissecting room and disposed of for L.8. The appearance of this body, which was quite fresh, which had not even begun to grow stiff, and of which the face was settled and pleasant, without any expression of pain, awakened suspicions, and Burke was strictly questioned as to where he procured it. He easily framed some plausible excuse, that he had purchased it from the house where she died, which silenced all further suspicion.

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## JANET BROWN'S STATEMENT RELATIVE TO THE MURDER OF PATERSON.

The following is the account of the circumstances connected with the death of the unfortunate girl, Mary Paterson, who was murdered in Constantine Burke's house, in Gibb's close Canongate, as given by her companion, Janet

Brown. Brown, though a girl of the town, seems possessed of considerable intelligence, and tells her story with distinctness and with every mark of apparent truth. She does not appear disposed to exaggerate, but rather seems unaware of the inference that may be drawn from some parts of the statement. This account has been communicated by herself, and is taken down nearly in her own words.

Mary Paterson and she, after leaving the Canongate watch-house, between four and five o'clock in the morning on which the murder was committed, proceeded to the house of an acquaintance, Mrs. Lawrie, where they had formerly lodged. Mrs. Lawrie wished them to remain. They, however, left the house in a very short time, and went to a spirit-dealer's in the Canongate, named Swanston. They had there a gill of whisky, and while drinking it, they observed Burke, who, in company with Swanston, was drinking rum and bitters. He entered into conversation with the girls, and affected to be much taken with them, and three gills of rum and bitters were drank at his expense. He wished them to accompany him to his lodgings, which he said were in the neighbourhood, and upon Brown expressing reluctance, was very urgent that she should go, saying that he had a pension and could keep her handsomely, and make her comfortable for life, and that he would stand between them and harm from the people in the house. This particular attention to her, she supposes to have been in consequence of finding her more shy and backward than Paterson, who was always of a forward fearless disposition. They consented to go along with him, and he promised them breakfast when they reached the house. He purchased, before leaving Swanston's, two bottles of whisky, and gave one to each of the girls to carry. He then conducted them to Constantine Burke's house in Gibb's close. They found

there Constantine and his wife; when they arrived the fire was not lighted, and William Burke swore and abused the woman for her negligence.

The fire was afterwards lighted up, and breakfast, consisting of tea, bread, eggs, and Finnan haddocks prepared; but during this process, the two bottles of whisky were produced and partly drank by Burke, Constantine, his wife, and the two girls. Constantine partook only of part of it, having in the meantime left the house to his work as a scavenger.

Before the whisky was finished, however, Burke had requested Brown to leave the house along with him. He seems to have considered Paterson as already sufficiently intoxicated for his murderous purpose, and to have applied himself more particularly to Brown, on whom the spirits had not taken so much effect. Finding that the enormous quantity of whisky had not yet produced the requisite effect upon her, he accompanied her to a neighbouring public house, where he proceeded further in his design of stupifying her, by giving her two bottles of porter which he also partook of, and a pie. All along, it is remarkable, that Burke, although he seems never to have lost sight of his object, but to have adopted every method to further it, should nevertheless have partaken as freely of the liquors consumed as if he had no other intent than to produce intoxication on himself as well as his intended victims, and it appears surprising that such a quantity of ardent spirits, joined to the porter, should not have disqualified him for carrying on the plot. He has, since his conviction, mentioned that it had produced this effect, and that he was intoxicated when the murder was committed.

After leaving this public-house, Brown was again taken

to Constantine's, and the second bottle of whisky finished. While engaged on it, M'Dougal, who had hitherto been unobserved, suddenly started from a bed, and joined in drinking the spirits. When she appeared, Constantine's wife whispered to the girls that she was Burke's wife, and upon her upbraiding him for his conduct, Brown apologised for being in his company, mentioning that they did not know him to be a married man, otherwise they would not have come, and proposed then to leave the house. M'Dougal replied that she did not blame them, but that it was his constant practice to desert her and spend his money upon loose women. She requested them to sit still, and seemed anxious that they should not go away. The quarrelling between Burke and her then got more violent, and she took up the eggs which had been set down for breakfast and threw them into the fire. Upon this Burke took up a dram glass and flung it at her; it hit her forehead above the eye and cut it.

At the commencement of the uproar, Constantine Burke's wife ran out of the house, as Brown supposes for the purpose of bringing Hare; indeed, as she saw no other person dispatched anywhere, it is difficult to account otherwise for this vampire's speedy appearance. After her departure Burke succeeded in turning M'Dougal out of the house, locking the door upon her. By this time Paterson was lying across the bed in a state nearly approaching to insensibility, and the murderer seems to have considered her as incapable of exertion, and certain to fall an easy prey when he had leisure to finish her. On this account, doubtless, he endeavoured to commence his diabolical work upon her more active companion; he affected great kindness towards her, and pressed her to go along with him into the bed which M'Dougal had so recently left. As she herself observes, however

much she might have been disposed to yield to his wishes, she could scarcely have done so after the brawl she had so recently witnessed, and while M'Dougal was still making a noise at the door and knocking for admittance, and she peremptorily refused. Fortunate it was for her that she did so, as there can be no doubt about his purpose, if he had succeeded in getting her into the bed, and once there it cannot be questioned that it was intended she should never leave it alive.

The confusion and uproar which had most probably been got up at first, as was their usual custom, to cover the commencement, and continued afterwards to drown the cries of the victims, had in this instance an opposite effect, and Brown, who had become much alarmed by their proceedings, though still unsuspicious of the horrible reality, persisted in her wish to be allowed to depart, promising to return in a quarter of an hour. Upon this promise she was suffered to depart, and Burke at her request conducted her past M'Dougal, who was still upon the stair-head apparently much enraged. It is not easy to account for his allowing his prey to escape from his clutches, probably he did expect her to return, and perhaps she got off more easily, as Hare, who if there is any difference in their desperate wickedness, seems to merit the distinction of being the arch-fiend of the two, had not yet arrived. If so, Brown again made a narrow escape, as from the short time that elapsed before she returned, when the murder was perpetrated, and Hare appeared standing as if unconcerned; he must have come within a very few minutes of her leaving the house.

She went straight to Mrs. Lawrie's, and jestingly told her that she would not remain with her, as she had got fine lodgings now; but after informing Mrs. L. of the circumstances, she agreed to go back along with her servant, and endeavour

to get Paterson removed. Upon her return, she did not recollect perfectly the close in which the house was situated, and applied at Swanston's for a direction to the residence of the man who left his house with them. She was told that they could not have gone with him, as he was a married man, and did not keep company with such as they, but that she would probably find him in his brother's in Gibb's Close. Even after getting into the close and the stair, she did not recognise the house, and entered that of a decent woman, inquiring if it was there she was before. She was informed that they kept company with no such people, but that it would likely be in the house up stairs. They proceeded up accordingly, and found there M'Dougal and Hare and his wife. Mrs. Hare ran forward to strike Brown, but was prevented. Between her leaving Burke's and returning, she thinks there was only about an interval of twenty minutes.

Upon inquiring for Paterson, they alleged that she had gone out with Burke, and added that they expected them back soon, and invited her to sit down and take a glass of whisky with them. She did so, in the hope that Paterson might quickly return. Mrs. L.'s servant then left them, and M'Dougal commenced a narration of her grievances from Burke's bad conduct, and railed at him for going away with the girl, and this while her murdered body must have been lying within a few feet of her! In a short time the servant returned for Brown, Mrs. L. having become alarmed at her report, had sent her to bring her. No attempt was made to detain her; but she was invited to return, which she promised to do.

In the afternoon she did go back, and was again informed by Constantine Burke's wife that Burke and the girl had not returned.

In answer to her subsequent inquiries and those of Mrs. Worthington, in whose house they lived, it was pretended that Paterson had gone off to Glasgow with a *packman*; but this reply did not satisfy Brown, as she knew that Paterson was a well-educated girl, and could write sufficiently well to send an account to her friends if she had left Edinburgh, which she certainly would have done; her clothes also remained unclaimed. No more satisfactory intelligence, however, could be obtained, and she never heard farther tidings of her until after the murder of the woman Campbell, when the mystery was developed, and the clothes which Paterson wore were found in the West Port. Upon being confronted with Burke and M'Dougal, she readily recognised them.

She believes firmly that Constantine Burke and his wife were cognizant of the proceedings, both from their manner at the time and the conduct of Constantine afterwards when she questioned him about Paterson. Whenever she saw him, which she frequently did at his work early in the morning, she inquired after her. His answers were always very surly; on two occasions saying, "How the h—ll can I tell about you sort of people; you are here to-day and away to-morrow;" and on another, as if in allusion to the horrid transaction, "I am often out upon my lawful business, and how can I answer for all that takes place in my house in my absence."

She represents Paterson to have been irregular in her habits, but not so low as has been represented, and appears indignant at a paltry print of her, in which she is represented in the garb of a servant, a dress in which she never appeared. She had been well educated for one in her situation, and possessed a fine person, for which she was more remarkable than beauty of face. The story which has ap-

peared in the newspapers about her mother being a housekeeper in the west country, Brown alleges to be unfounded. She was a native of Edinburgh, and her mother is dead.

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## MURDER OF "DAFT JAMIE."

The second murder charged in the indictment was that of James Wilson, commonly known by the name of "Daft Jamie;" and the circumstances attending it were even more revolting than those of the women Paterson and Campbell. None of their misdeeds has excited a greater feeling of indignation in the public mind. Jamie was very generally known, and was a universal favourite. His appearance marked the imbecility of his mind, and was such as to make every one regard him with a feeling of tenderness and sympathy. He was perfectly harmless and inoffensive, and possessed apparently great kindliness of heart. To all who had occasion to be on the streets of Edinburgh, whether at an early or late hour, Jamie's appearance was perfectly familiar—wandering about, in every sort of weather, bareheaded, and without stockings or shoes, and his good-humoured laugh and salutation, by an awkward bow and twitch of the front lock of hair, were readily recognised and replied to. Though roaming almost constantly about in this guise, he was never known as a beggar, but occasionally visited certain houses, where he was admitted as a familiar guest, and kindly entertained, while even in these he conducted himself in a modest unobtrusive manner. He used to allege that he did not need money, as he had sometimes the "feck o' half-a-croun on him." Jamie was by no means, however, the moping idiot that he has

been represented. Though undoubtedly imbecile and incapable of any continuous mental exertion, he possessed some small portion of intellect. To the boys of Edinburgh, his knowledge of the days of the month and week, and facility in computing on what day of the week any given time would fall, were well known; indeed, he sometimes appeared to serve in place of a kalendar to them. His musical talents were also appreciated, and he was often called upon to entertain his juvenile acquaintances with a song, which he executed in tolerable style.

He was scrupulously clean in his person and linen, changing it frequently. His hands and feet, though uncovered, were also observed to be always clean. They were peculiarly formed, and by his feet he is said to have been recognised by some of the students in Dr. Knox's dissecting rooms.

It is a curious fact, that almost all the *naturals* who have lately been known on the streets of this city, have met with a violent and untimely end. Bobby Auld, a cotemporary and acquaintance of Jamie's, was killed by the kick of an ass, and afterwards became also a subject for dissection. There is an anecdote told concerning them, which is a curious instance of blindness to a personal deficiency, joined to a just perception of it in another, and at the same time exhibits in a strong light what we have said of Jamie's innocent and artless disposition. It is narrated that the two met accidentally one day somewhere in the neighbourhood of the Grassmarket. "It's a cauld day, Bobby." "Aye is't, Jamie," replies Bobby. "We wud be the better o' a dram—hae ye ony siller? I hae tippence;" "and I hae fourpence," says Jamie. "Oh, man,"

rejoins Bobby, "that'll get half a mutchkin." They then adjourned to a neighbouring public-house, where the money was produced, and the liquor ordered. But before any of them had partaken of it, Bobby inquired anxiously, if Jamie had seen "the twa dougs fechting on the street?" "No," says Jamie, "I saw nae dougs fechting." "It's a grand fecht though," replies Bobby, "and has lasted half an hour; its weel worth your seeing, and you had better gang to the door and see it." Jamie accordingly proceeded unsuspectingly to the street to witness this wonderful dog fight, but speedily returned with the intelligence that he could discover no such conflict. "They'll be dune then," coolly observes Bobby. "But what's come o' the whisky?" said Jamie, on observing the stoup standing empty. "Ou, man," says the treacherous Bobby, "ye bade sae lang I couldna wait." Upon Jamie's being questioned what he had done to Bobby for this false play, he replied, "Ou what could ye say to puir Bobby? he's daft, ye ken."

Jamie, however, though inferior to Bobby in trickery and low cunning, was much his superior in intellect. His father is said to have been a decent religious man, and took him regularly to a place of worship in the old town on Sabbaths, which Jamie, after his death, perhaps from habit, continued to attend. When examined by a respectable member, it was found that his religious knowledge was far beyond what could have been expected, and superior to many whose appearance promised more. His answers to questions were intelligent, and out of the usual routine.

It is probable that this poor creature had been for some time watched by the gang of murderers, and mark-

ed out as one that might be easily taken off without exciting suspicion. They had very much miscalculated however, both the notice that would be taken of his disappearance, and the degree of resistance he was capable of making. Accident unfortunately threw him in their way. He was met by Burke at nine o'clock one morning in the beginning of October last, wandering about in his usual way in the Grassmarket. He instantly accosted him in his fawning manner, and inquired of him whether he was in search of any one; he told him he was seeking his mother, to whom, as he was a creature of kindly dispositions, he was warmly attached. The wretch at once saw that he now had him within his grasp, and instantly commenced his schemes for drawing him away to some convenient place where he might be murdered. He contrived to persuade him that he knew where his mother had gone, and would take him to the place, and by coaxing and flattery he at length decoyed him into Hare's house. Here those monsters of iniquity, exulting over their deluded victim, began to pretend the greatest kindness for him, and having procured liquor, they pressed it upon him. He at first decidedly refused to taste it, but they so far wrought upon his good nature by their assumed kindness, that they induced him to join them in their cups, and then plied him so effectually, that he was soon overpowered, and laying himself down on the floor, fell asleep. Burke, who was anxiously watching his opportunity, then said to Hare, "Shall I do it now?" to which Hare replied, "He is too strong for you yet; you had better let him alone a while." Both the ruffians seem to have been afraid of the physical strength which they knew the poor creature possessed, and of the use he would make of it, if prematurely roused. Burke, accordingly, waited a little, but impatient at length to ac-

complish his object, he suddenly threw himself upon Jamie, and attempted to strangle him. Oppressed as he was with the influence of liquor, he was roused at once by this assault to a full sense of his danger; and, by a dreadful effort, he threw off Burke, and sprung to his feet, when the mortal struggle began. Jamie fought with all the fury of despair, and would have been an overmatch for any one of his ruffian assailants. Burke had actually the worst of the struggle, and was about to be overpowered, when he called out furiously to Hare to assist him, crying that he would stick a knife into him if he did not do so. Hare rushing forward turned the balance of the unequal conflict by tripping up Jamie's heels; and afterwards dragging him along the floor, with Burke lying above him. None were present at this murder, which was completed before mid-day, except the two ruffians themselves.

This will be readily recognised as Hare's account, and, of course, it is fitted to show him in the most favourable light which the circumstances will admit of. It is but justice, however, to give the statement of his companion in guilt, who, if there is any choice, is, after all, perhaps the one whose testimony is most entitled to credit.

Burke states that it was Hare who decoyed Jamie into the house, and then sent for him to assist him in his inhuman design,—that Jamie not only peremptorily refused to taste the liquor presented to him at first, but actually did drink very little of it, and not nearly so much as to produce intoxication,—that he then sat down upon the bed, reclining backwards and leaning upon his arm, and that Hare sat beside him in the same position, —and after some time, impatient for his prey, began to

attempt to suffocate him in the usual way, by pressing his hands over his nose and mouth. Jamie, however, when he found him using violence, resisted stoutly, and grappled with him; and during the struggle, both fell off the bed, and rolled on the floor. Hare then called for Burke's assistance, which he effectually rendered, by falling upon Jamie's body, when, by their united efforts, he was dispatched.

Jamie fought manfully, and did inflict some injuries upon them; but it is a mistake to suppose that Burke's cancer was produced in consequence of the bite which he is said to have given. It was originally the effect of heat and fatigue in walking, which he had neglected, and leading a dissipated dissolute life afterwards, it reached the dangerous state which it has now assumed. After Jamie's death, Burke remarked that his clothes would answer his brother, to whom they were given, and a pair of trousers were afterwards recognised upon him by a baker in the Cowgate, whose they had been, and who had given them to Jamie. It was also observed that his son wore his kerchief.

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## DISCUSSIONS RELATIVE TO THE TRIAL OF HARE AND THE *SOCII CRIMINUM*.

Since the condemnation of Burke a very important question has been agitated, not only among lawyers, but in society and the public prints,—namely, whether or not Hare, or any of the other parties who were concerned in the two murders that were libelled in the indictment against Burke, but which were not brought to trial,—can now, after having been admitted as

evidences for the crown, be legally put upon their trial for participation in those murders? This is a very nice and intricate question indeed, and it is likely to be brought on for immediate discussion in a regular shape, as the mother of James Wilson, one of the victims, has been advised that it is competent to her, as a private party, to prosecute Hare, or any of the other guilty persons, notwithstanding any arrangements into which the Lord Advocate, as public prosecutor, has entered with them as king's witnesses on Burke's trial;—and such is the strong current of public feeling in support of an attempt to bring Hare to justice, that a subscription has been set on foot, and some of our nobility and gentry of high rank have given the sanction of their names, and the aid of their purses, to support the poor woman, while eminent counsel and an agent—as we formerly mentioned—have undertaken the conduct of the proceedings. Preparatory to such a prosecution, application has been made, in name of Wilson's mother, to the Court of Justiciary, to have Hare and his wife detained in custody until an indictment shall be served, and the other preliminary steps gone through, preparatory to a solemn trial of the question.—

In the meantime, it may be interesting as a chapter in the history of this frightful drama of real life, to combine with the details formerly given such a selection from the arguments which have already been maintained on this point, as will afford a concentrated view of the discussions which lie scattered over a number of different publications. And in doing this, we shall take the liberty of lopping off such parts of the controversy as are extraneous to the mere point of law, and as might tend to prolong any of that irritation and personality which very

naturally, although not necessarily, mingle themselves in public discussions.

We regret that the length to which these discussions necessarily extend will prevent us from giving, so early as was intended, a complete account of the Life of William Burke, and the circumstances attending the murders, including many interesting particulars hitherto unpublished. This will appear immediately after, and in the meantime we trust that the public will appreciate the importance of the question now presented to their notice.

The first publication, we believe, on this subject was an article in the Caledonian Mercury, of which the substance is as follows:

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It is now certain that no further proceedings are to be taken against the persons concerned either as principals or accessories in the late murders; at least, we have seen a document issued from a high quarter, the gist and bearing of which lead directly to this inference. But the matter cannot possibly be allowed to rest here. The united voice of society calls loudly for further, deeper, and fuller investigation; and if the Public Prosecutor refuse to obey that call, and redeem his pledge to probe and sift the whole system of iniquity to the bottom, there is another place where the universal cry for justice, which now rings throughout the land, will be listened to and respected, and where even that high functionary himself may be called to account for the mode in which he has exercised the almost unlimited, certainly undefined, powers of his office. We are quite prepared to give him credit for the perfect purity and uprightness of his motives in abstaining from the institution of further

inquiries, and in wishing to allow the veil, of which a corner only had been withdrawn, to drop for ever on scenes too horrid and bloody to be contemplated without fear and trembling. He may have come under a promise to the prime *particeps criminum* which, as a man of honour, he cannot violate; and he may be actuated by a desire to avoid, as far as possible, every thing calculated, as he believes, to injure the schools of anatomy in this city. But, in regard to the first of these grounds of forbearance, (which the reader will observe we put merely as suppositions) the public have nothing whatever to do with any private and extrajudicial obligations of this sort, which however expedient or necessary in some cases they may be thought, are in every case illegal; and the answer made to such an apologetical plea will unquestionably be, that justice is not to be stifled, nor a horde of murderers, and accessories to murder, suffered to escape, because one of the horrid gang was induced to "peach" by a promise of impunity and protection. That incomparable miscreant, steeped to the very teeth in blood and slaughter, the originator of the assassinations, Burke's master in the art of murder, and a principal or an accessory in every crime which has been committed,—in short, if there be any gradations of guilt in atrocities such as were never before heard of or paralleled in any age or country, the most guilty,—was not surely a fit subject to be selected for clemency upon the condition of betraying his accomplices: especially, where these were so numerous that others less deeply implicated might have been found equally capable of revealing the whole mystery of iniquity. Besides, his evidence, if evidence it may be called, was unnecessary and useless. It was unnecessary, because, exclusive of his revelations, there was abundant evidence to bring home

the crime charged to *both* of the prisoners; and it was useless, for what Jury would credit the testimony of a wretch whose only title to be believed consisted in his having been concerned in the perpetration of *three*, perhaps *thirty* murders,—who coolly admitted in the box that he had stood or sat by, with perfect composure and unconcern, while Burke was strangling the unhappy woman for whose murder his life has been forfeited,—who had the most powerful of all human motives, and the very strongest conceivable interest in saying every thing which he deemed calculated to effect the destruction of his quondam pupil and associate,—and who must have exchanged places with the pannel, if the pannel had been acquitted? We say, therefore, that we are utterly at a loss to conceive upon what principle this execrable villain was admitted to "peach."

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This was followed by an answer, reply, and various replications, which we shall content ourselves with inserting in their order, denuded only of such portions as might have perhaps been spared, but which must have crept in unadvisedly, in the heat and hurry of composition for newspapers.

*Edinburgh Advertiser.*

Much dissatisfaction has been expressed that no more of the horrid gang of murderers are likely to be brought to trial, and, consequently, that Burke is the only victim who is to be sacrificed to public justice; but the decision to which the Court came in restricting the Prosecutor to the proof of one of the three charges exhibited against Burke, however it may have been consistent with strict justice, was attended with the necessary effect of preventing the disclosure of the circumstances connected with

the other two murders, namely, those of Mary Paterson and of "Daft Jamie," for which the Lord Advocate so strenuously contended, in the view of satisfying the public mind; for, after Burke had been convicted under the third charge, it was out of the question to proceed to try him a second and a third time on the two previous accusations. The limited nature of the disclosure thus produced has naturally led the public in the present state of excited feeling, to call for the farther trial and punishment of this atrocious gang.

We have heard, however, that no farther trials will take place, and we can figure the reasons why. It is apparent that there were just four persons engaged in these horrid deeds, viz. Hare and his wife, Burke and M'Dougal; the latter of whom, though not actually married to Burke, had lived with him as his wife, and had borne his name for ten years, and was thus legally his wife. After being detained weeks in jail, we understand, that not one of these four prisoners, when examined as accused persons, would acknowledge any share of guilt. In such circumstances, if these persons had been all indicted, it is obvious that the evidence against them would have been merely presumptive, and considering the difficulty even in convicting Burke, when two eye-witnesses swore to the way in which the deed was done, it is plain that all the four would have been acquitted. What effect such a result would have had on the public mind it is needless to inquire. *The only course left to secure a conviction was to admit a part of the gang as witnesses against the rest.* To have taken the women as king's evidence against the men, if they had been willing to speak out, which it is believed they were not, could have availed nothing, as by law their testimony could not have been

received against their husbands; besides, their knowledge could not be of that extended nature which it was desirable to possess. The only resource, therefore, must have consisted in taking Hare, who, however criminal, *was not the leader of the gang.* It may be well supposed that Hare would not have been so well dealt with, unless he had agreed to disclose, not merely the circumstances connected with the murder of Docherty, but with *every other crime of that nature in which he and Burke had been concerned*, and that his wife, against whom *he* could not give evidence, should confirm his statements so far as consistent with her knowledge. Such information was clearly indispensable for the safety of the public. It is known that it was solely from Hare's consequent disclosures that the murders of Mary Paterson and Daft Jamie were ascertained, and that collateral evidence was obtained sufficient to warrant a charge against Burke as connected with these murders. In both these cases, it is certain that the bodies were recognised in the dissecting-room, and in both, part of the clothes of the unfortunate persons murdered, were found in Burke's possession. If no other case was charged, it may well be supposed to have arisen from the absence of such collateral evidence, without which no conviction could have been looked for. If we are right in this statement, *and we have been at some pains in obtaining accurate information*, it would be *impossible* to bring Hare or his wife to trial for crimes which they had disclosed under such circumstances, even if there could be evidence against them, which is no ways likely.

M'Dougal has been tried, and a jury has thought fit to acquit her of the only charge of which evidence could be obtained of her accession; and Burke has been con-

victed, and he is to be executed. Deeply as we regret that punishment should not reach a greater number of those miscreants, we cannot shut our eyes to the obstacles which may thus present themselves to its accomplishment, and must console ourselves with the reflection, that if farther trials are not to take place, the public functionaries are now well informed not only of the extent but of the nature of such practices; and, thus alive as they must be to the dreadful consequences of such crimes, the public has good reason to trust to the effect of their vigilance and exertions in affording security to the lives of the unprotected.

*The Caledonian Mercury.*

In a contemporary journal of Friday last, we observe an article entitled "The West Port Murders," which we think deserving of our special notice; and as it is substantively an answer to our legal argument respecting the liability of Hare to be tried for the murders of Mary Paterson and Daft Jamie, as well as a defence of the Public Prosecutor, for declining to bring any more of "the horrid gang of murderers" to trial, we feel ourselves called upon to reply to it. In doing so, however, we shall not fail to keep in mind that we have to deal with a question of law and of fact merely, and that, differing as we do *toto coelo*, from the Lord Advocate, in the view which he has taken of his duty upon this occasion, there is but one opinion as to the purity and uprightness of the motives by which he has been actuated, and of his desire, (unless opposed by technical difficulties,) to afford the fullest satisfaction to the public. His Lordship, to his infinite honour, has uniformly paid attention to the strongly expressed sentiments of the country.

The article in question sets out as follows,—for quotation see pages 141 and 142, paragraph commencing, "Much dissatisfaction, &c.

Now, we contend that this is altogether erroneous in point of law, and that the writer, in order to arrive at his conclusion, has confounded two things perfectly distinct, viz. the legal effect of a verdict of conviction *before* sentence, and the legal effect of such conviction *after* the Court has been moved to pronounce judgment; and after a sentence has been passed sinking the *caput* of the prisoner. It is quite clear in law, that even a conviction, upon a capital charge, does not and cannot destroy the *status* of the prisoner; and for this reason, that the verdict may be special, or inapplicable, or it may find something different from the facts charged, or it may involve a conclusion which is inept in law, so that, upon a motion in arrest of judgment, no sentence can pass upon it. Instances of this kind constantly occur; and every one who is acquainted with the books of criminal law, must be familiar with many of them. It follows, therefore, that if an objection were proponed upon any of these grounds, and sustained by the Court, the prisoner would fall to be dismissed *simpliciter* from the bar. But until the Court be moved for judgment, it cannot be known whether such an objection may not lie; and, consequently, it is manifest that a mere conviction, however valid it may ultimately be found, does not and cannot affect the *status* or destroy the *caput* of the prisoner, which is the joint result of the verdict *and* the sentence. Hence, we contend that the writer before us labours under a complete mistake in supposing that the decision of the Court "in restricting the Prosecutor to the proof of *one* of the three charges exhibited against Burke *was attended*

*with the necessary effect of preventing the disclosure of the circumstances connected with the other two murders,*" and that, "*after Burke had been convicted under the third charge, it was out of the question to proceed to try him a second and a third time on the two previous accusations.*" As matters turned out, it was indeed out of the question to try Burke a second and a third time for the other two murders. But how was it out of the question? Solely on account of the error committed by the Prosecutor himself in moving and obtaining the sentence of the Court on the verdict of conviction which had been returned by the Jury on the third charge, namely, the murder of the woman Docherty: For the moment Burke was condemned to die, his *caput* was destroyed,—he was dead in law, and had no longer a *persona standi in judicio;* consequently, after such conviction and sentence, it was clearly "out of the question to proceed to try him a second and a third time on the two previous accusations." But we have some confidence that no lawyer will maintain the incompetency of proceeding to try Burke upon these charges, had the Lord Advocate rested satisfied with the conviction he had obtained, and delayed moving for sentence. We will not argue a point so clear as this. It is evident to us that the dilemma in which the Prosecutor has placed himself is the consequence of his own blunder, and that Burke might have been tried on twenty separate charges, if the indictment had contained so many, but for the error committed by his Lordship himself in moving the Court for judgment, and thus destroying the prisoner's civil personality, and, of course, his *persona standi in judicio.*

After stating, what is perfectly true, that "the limited nature of the disclosure thus produced has naturally led

the public, in the present state of excited feeling, to call for the farther trial and punishment of this atrocious gang," the writer then proceeds to say:—See paragraph on page 142, commencing "We have heard, however," &c. to end of the article.

Now, our readers will perceive that this just comes, in substance, to the fact stated by implication in our Saturday's publication, that Hare and his wife were admitted to "peach" upon a promise of impunity and protection. But were the circumstances such as to warrant the Public Prosecutor in giving such a promise, or accepting disclosures from Hare in regard to the murders of Mary Paterson and Daft Jamie, calculated to embarrass him in dealing with these miscreants, or to tie up his hands altogether from proceeding against them on account of these horrid crimes? We maintain there were no such circumstances, and our reasons for thinking so are already partly before the public. The defender of the Lord Advocate says, indeed, that "there were just four persons engaged in these horrid deeds, viz. Hare and his wife, and Burke and M'Dougal," and that if all four had been indicted, "it is obvious that the evidence against them would have been merely presumptive, and considering the difficulty experienced even in convicting Burke, *when two eye-witnessss swore to the way in which the deed was done*, it is plain that all the four would have been acquitted." Now, all this is very loosely and inaccurately stated;—for, in the first place, the Lord Advocate knows as well as we do, that instead of *four*, there were at least *seven* persons concerned either as principals or accessaries in these murders; secondly, that independently of the testimony of Hare and his wife, there was more than "presumptive evidence" inasmuch as he himself rested

the case against Burke on the other evidence adduced, exclusive of Hare and his wife altogether; thirdly, that the Jury paid no regard whatever to the testimony of these wretches, yet convicted Burke of the charge libelled; and, lastly, that no other difficulty was experienced in obtaining this conviction than arose from the Prosecutor having to contend with the great talents of the Counsel arrayed for the defence, or were inseparable from a protracted investigation into a great body of circumstantial evidence. How, then, can it be maintained, that if Hare and his wife had been included in the indictment with Burke and M'Dougal, the whole four would have been acquitted? It is said, indeed, that these miscreants, particularly the former, made such disclosures in relation to the murders of Mary Paterson and Daft Jamie, as renders it now impossible to bring them to trial for these assassinations; but even admitting this to the fullest extent, it is not pretended that they made any disclosures connected with the murder of Docherty; and as their testimony proved of no avail in facilitating or insuring a conviction against Burke, the necessary inference is, that the Prosecutor mismanaged his case in not including them in the same indictment with their associate and accomplice for that offence at least. But if people will not seek for evidence they cannot find it. Why was Falconer not sought out and brought forward? Had the Prosecutor apprehended this fellow and Paterson, and afterwards admitted them as king's evidence, there would have been no want of proof to convict the whole operative part of the gang, *if not to go even farther than this.* The teachers of anatomy ought also to have been examined. They had it in their power to tell much that had come to their knowledge, and to point out channels by which more might have been discovered. Informa-

tion of the most valuable description might have been obtained from them, had it been required; information, which they were willing and anxious to give, and which, we rejoice to learn, the Prosecutor is now taking the proper means to obtain.

In the paragraph above quoted there are some errors in point of fact, which are the more material and german to our view of the case, because the mind of the Public Prosecutor may have been misled by them, and his course of conduct influenced by the misconceptions under which he laboured. First of all it is stated that M'Dougal, "though not actually married to Burke, had lived with him as his wife, and had borne his name for ten years, and was thus legally his wife." In his "confessions," Burke states himself to have been living in notour adultery, which of course could only be the case upon the supposition that a former wife of his own was alive; which we understand to be the fact. M'Dougal's connection with Burke, therefore, was not of such a nature as legally to disqualify her for giving evidence against him. Next, the writer is misinformed when he says that Hare "was not the leader of the gang." Further investigation, we are convinced, will prove the contrary. Hare was engaged in this horrid traffic *before* he formed an alliance with Burke; and although the superior appearance, address, and physical strength of the latter, led him to act as the decoy, and to take a conspicuous share in the perpetration of the murders, Hare, we are satisfied, was his master and his tempter, as he is known to have been his constant associate in all the murders he committed, except, perhaps, one, which Burke alleges Hare did by himself when he was in the country. It is really melancholy to "hear,"

therefore, "that no farther trials will take place," and that, as far as the Prosecutor is concerned, Hare and his wife are now free from all challenge.

Happily, however, there is one method by which they may still be brought to justice. The mother of Daft Jamie is alive; and it is competent for her to prosecute for the murder of her son, upon obtaining the concourse of the Public Prosecutor, which his Lordship cannot withhold. This, we understand, is a settled point, and we know of a case in which a private party similarly circumstanced came forward. It was in consequence of several persons being shot, in Aberdeen, on the late king's birth day, Captain M'Donach was that day the officer on duty, and gave the orders to the military to fire upon the mob, in consequence of which several persons were killed. Politics then ran high, and his Majesty's Advocate refused to bring the Captain to trial. But a private party came forward; his Lordship was obliged to grant his concourse; and Captain M'Donach was put upon his trial. The Hon. Henry Erskine conducted the case for the prosecution; but in spite of all his efforts the Jury acquitted the prisoner. We do not remember how the instance was laid, and we have not time at present to consult the authorities. We are quite certain, however, as to the main fact, that the prosecution was brought by a private party, with concourse of his Majesty's Advocate, after that Functionary had refused to prosecute in his own name. Now, the inference we draw from this is, that the mother of Daft Jamie ought to come forward upon this occasion; and in order to enable her to do so, a subscription should be immediately opened for raising the necessary funds to defray the expense of the trial. Were this done, hundreds, nay thousands

would subscribe to enable her to prosecute; and we are satisfied that the Lord Advocate would not only not refuse his concourse, but would be pleased and gratified with a proceeding calculated to relieve him from the embarrassments with which he is at present surrounded.

*Edinburgh Advertiser.*

The Lord Advocate is blamed, not only for not having possessed the gift of "second sight," and discovered sooner that Burke and Hare, and their two wives, were murderers. He is blamed in the second place, for having been able to procure the conviction of only one of the gang. Hare and his wife, it is said, ought not to have been made King's evidence. There was enough of evidence, we are told, against their associates without them; and we are desired, therefore, to adopt the conclusion, that they were improperly screened from punishment, by being invested with the character of witnesses. This is really too much. But some persons, when *disposed* to find fault, require, in the language of the proverb, "but a *hair* to make a tether." It has proved so, in the present instance. A better arranged case of proof, circumstantial and direct, has seldom, perhaps, been laid before a jury, than that which was submitted to the jury on the trial of Burke and M'Dougal. A train of more clearly delivered and unshakenly adhered to testimony, on the part of the unexceptionable witnesses, has seldom been listened to. Yet, even when aided by the direct testimony of Hare and his wife, for whose evidence we are told there was no necessity, a jury, including individuals of the most respectable character, unanimously found the charge *not proven* against *M'Dougal*, while, at least, two of them, it is asserted, contended for a similar verdict *even against Burke* himself. Had Hare and his wife,

therefore, not been witnesses, there is the best reason for supposing that the conviction of none of the four would have been obtained. It is surprising that, in such a state of facts, the Lord Advocate should be accused of having acted improperly in admitting these miscreants to the privileges of king's evidence.

In our last paper we endeavoured to show that his Lordship could not have acted otherwise than he has done. A contemporary of yesterday has reviewed the remarks we then made. After affecting to consider them as coming from a "higher quarter" than ourselves, in order, of course—to secure the greater attention to his own observations—he still contends that the Lord Advocate acted improperly in giving immunity to Hare and his wife, and that if he had not done so, he might have accomplished the conviction of more of the gang than Burke. On a *prima facie* consideration of the subject, this must appear very unlikely. His lordship was, of course, in possession of all the evidence in its authentic shape, the broken parts of which have been wafted, in an exaggerated form, to the knowledge of the public. He was, perhaps, aware too, that the murders had all been so committed as to preclude the chance of direct evidence of them, except either from Burke or Hare—who were accustomed, according to the recent confession of Burke, to keep even their wives out of the way, on such occasions. Our contemporary has not stated, and we, therefore, imagine, cannot state, that any third party, not of the gang, ever witnessed a single one of the murders, or was ever so connected with their perpetration, as to be able to give any thing approaching to the requisite direct evidence on the subject. He should be prepared to do so, however, before censuring the Lord Advocate for

a mode of procedure which may have been, and which, we believe, was wholly unavoidable.

Our contemporary objects to the extent of immunity he supposes to have been given to Hare and his wife. On this point, we should think, he need feel no uneasiness. If king's evidence was necessary—if without such evidence it be plain from what has occurred on the trial of Burke, that there was more than a chance, a probability even, that the conviction of none of the gang could have been obtained—we may rest assured that the Lord Advocate offered no farther premium on the treachery which he felt to be requisite, for the sacrifice of some of them, than was absolutely necessary to insure it.

But then our contemporary thinks that, at all events, a different selection ought to have been made, and that, by the testimony of M'Dougal, had she been admitted as king's evidence, Hare might have been convicted as well as Burke. In our last paper, we stated that M'Dougal, although not actually married to Burke, had, for ten years, lived with him as his wife, and, in law, therefore, *was* so, and could not be examined against him; and as the other woman could not, for the same reason, have been examined against Hare—and neither of them could furnish against the husband of the other, that clear and decisive evidence required from *socii criminis*, to give it sufficient weight; the result of taking *them* as king's evidence might, and probably would have been, the escape of the whole four. Burke, however, it seems, has been confessing since his condemnation, and, as one of his confessions is said to lead to an *inference* that his cohabitation with M'Dougal could not make her his wife, as either he or she were previously married, and the wife or hus-

band of the former marriage still alive—our contemporary, on the tacit assumption that this even yet mysteriously hinted at fact was or ought to have been known, and capable of proof *before* the trial—endeavours to give the *coup de grace* to our argument against the possibility of having made M'Dougal give evidence against Burke. His attempt to do so is founded on the result of what is generally called, reasoning in a circle, and seems to require no farther notice. His whole argument, indeed, on this part of the subject proceeds on this other assumption, that the Prosecutor, in looking out for king's evidence, has the selection of it entirely in his own hand. This, we rather think, is but seldom the case; and, where the gang have been connected as husbands and wives, the selection must often be prescribed to him, or made imperative, by circumstances over which he can have no control. Is our contemporary quite sure that the Lord Advocate had not his hands tied, in this way, in the present case?

As to his lengthened argument to show that had the Lord Advocate not moved for judgment against Burke, when found guilty of the last of the three murders charged against him, it would have been competent to have led evidence of the circumstances attending the other two—we would simply ask, *cui bono?* What good effect could have resulted from the leading of it? Hare and his wife being protected as king's evidence against the consequences of *their* participation in them, and M'Dougal not being charged with *them* at all, they could only have been proved against Burke. After what had passed, must not this have seemed, in so far as Burke was concerned, to be like the pouring of water on a drowned mouse, and, in so far as the public was interested, to be the exciting of feeling unnecessarily and without object?

Our contemporary, in conclusion, asserts, that whatever immunity the Lord Advocate may have felt it necessary to give to the infamous Hare, the mother of "Daft Jamie," taking advantage of the disclosures made by that wretch under promise of pardon, is entitled to prosecute him, with the concurrence of the Lord Advocate, which concurrence, in all these circumstances, his Lordship, he says, will be bound to give. This seems very novel doctrine. We can only say, that we should be extremely glad to think our contemporary correct in laying it down; and no man, we are certain, would be more happy to think his reasoning without flaw, than the Lord Advocate.

There is still another point of *dittay* against his Lordship, an insinuation that he is unwilling to prosecute trains to the knowledge of other murders which are said to have opened to him, and which are reported to implicate other murderers than those already known to the public. Such an insinuation might safely be contemned by any one, and must be far too incredible, when made against his Lordship, to find a couple of ears on the respective sides of the most credulous head in the strongholds of credulity itself, to take it in. The Lord Advocate, we suppose, thinks coolly before he acts—finds out some person to be tried—and on grounds inferring probable conviction, before he institutes the trial; and, as our contemporary admits that he is still proceeding in his investigations, the charge of unwillingness to prosecute, seems, even on his own showing, to be very premature, as well as incredible.

We are satisfied that, in the prosecution of Burke and his associates, and in the investigation of the system of

murder with which they have been connected, the Lord Advocate has done, and is doing his duty, ably, impartially, and fearlessly, and that he is entitled to the highest praise instead of the slightest censure. Feeling this to be the case, we cannot withhold our humble effort to make it appear so.

*Edinburgh Observer.*

The people are not satisfied with the imperfect disclosures that have taken place, and the trivial atonement that is to be made to outraged humanity, by the death of only one of the atrocious gang. There is a cry for blood —more blood—throughout the land; and coming, as it does, from the bulk of the nation, it will require no little discrimination and firmness, on the part of the Public Prosecutor, to see his way clearly, and to keep it when he has found it. A more difficult situation than his, at the present time, we cannot well imagine. Even the activity of the press, in reiterating the calls for further inquiry and for more victims, at the very moment when he is known to be indefatigably employed in prosecuting the one and searching for the other, has greatly contributed to render his duties more harassing and ungracious. Under a sincere, and, despite what others say, we conceive a just impression, that all the monsters might escape the gallows, as one of them has actually done, by a verdict of "not proven," he permitted two of them to purchase their worthless lives by bearing testimony against their associates. That the Hares obtained this immunity as being the lesser criminals in his estimation, we do not believe. The fact of the particular murder, which led to the whole discoveries, having been perpetrated under Burke's roof, naturally pointed out him and his guilty partner as the more immediate objects of legal

vengeance. It is evident, that throughout the whole business, the Lord Advocate has been actuated by the most honourable anxiety to investigate the affair to the uttermost; and had he not, at the very outset of the trial, been urged into a concession to the legal scruples of the counsel opposed to him, whose eloquence most assuredly reft one wretch from the clutch of the hangman, not merely one, but three acts of the horrid drama would have been publicly revealed. It is stated, that since the trial, his Lordship and his assistants have been unremitting in their inquiries. He has attended almost every precognition, and surveyed in person the foul abodes which the murderers inhabited, and even the dwellings of their victims. But he refuses to violate the public faith, of which, in this instance he is the custodier, by yielding up the tools he has been forced to employ, to that punishment which they have so abundantly merited, yet from which the nation stands pledged they are redeemed. God forbid that we should advocate the indemnity of these monsters on any ground, save the sanctity of such a pledge. We question greatly, whether Hare and his partner, cast upon the world with ignominy and crime branded on their foreheads, are not more condignly punished, than the wretched man whose days are numbered, and whose doom, it is certainly not uncharitable to predict, will yet overtake them. In the case of Weare's murder, Probert, one of the accessaries, was admitted to a like immunity. When his foul breath had consigned one of his associates to the gallows, he was allowed to go forth into the world a free man; but, like Cain, he found himself an outcast, and, in the course of a few months, was again arraigned as a felon, convicted, and executed.

Though we dissent from the summary mode of procedure which many people recommend, and conceive that it would be a perilous innovation on the prerogative of the Public Prosecutor to say, that in this instance, his pledge of immunity shall be disregarded, unless some new charge can be substantiated, we view the detestation so unaffectedly expressed by the public towards the whole gang, as consolatory to humanity. Had criminals, with hands so deeply dyed in blood, found even one commiserator or advocate beyond the walls of the Court of Justice—had any man ventured to whisper that the crimes which they have perpetrated are not worthy of death—nay, had not the whole nation lifted up its voice, and declared, that even death itself was but a miserable atonement for crimes so monstrous, we should have regarded it as a national disgrace. It is to be hoped, however, that this laudable spirit will not degenerate into tumultuary violence. The authorities, we are satisfied, will not relax their efforts to develope the whole of these sanguinary atrocities; and, if the correspondence which is at present carrying on between the Lord Advocate and the teachers of anatomy should, in conjunction with other investigations in progress, lead to the inculpation, in the remotest way, of any individual, we are satisfied that nothing will shield the culprit from the vengeance of the law, be his rank or previous respectability what it may. As yet only one individual of that body has been in any way implicated in these horrible transactions; and we know that a feeling is prevalent that he has been treated with greater delicacy than he deserves; but the culpability of one man must not be received as condemnatory evidence against a whole tribe. An earnest desire is entertained by the teachers of anatomy that the fullest investigation should take place; and if criminal

laxity in the receipt of subjects can be traced to any particular quarter, an ample exposition will follow. This exposition they are entitled to demand; for the reputation of the whole fraternity is perilled by the revolting suspicions which the crimes of their caterers have engendered.

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*The Caledonian Mercury.*

## THE PUBLIC PROSECUTOR AND HIS APOLOGISTS.

*Mieux cents ennemis qu'un imprudent ami.*—French Proverb.

The remarks which appeared in our Monday's publication, on the defence of the Lord Advocate inserted in a contemporary Journal of Friday last, have been reviewed, not answered, in the columns of the same paper of Tuesday; and were it not of the very greatest importance, at the present moment, that the public should be accurately informed respecting some of the points at issue, we should have been well content to leave the subject to the decision of all competent persons, upon our first and somewhat hurried statement. We trust that we shall be excused for proceeding at once to deal with the only matters of law and fact to which the writer has thought proper to advert.

And, in the first place,—(for the sake of perspicuity, we shall take the different topics in the same order as formerly)—the writer reluctantly admits the validity of the argument which we adduced "to show that had not

the Lord Advocate moved for judgment against Burke, when found guilty of the last of the three murders charged against him, it would have been competent to have led evidence of the circumstances attending the other two." But he asks, *cui bono?* "What good effect could have resulted from the leading of it?" We answer, first, that it would have redeemed the Lord Advocate's pledge; and, secondly, that it would have satisfied the country. Both in replying to the arguments of the prisoner's Counsel on the relevancy, and in addressing the Jury for the Crown, his Lordship distinctly pledged himself to probe and sift the *whole* of these murders to the bottom. In the former case, while contemplating being under the necessity of deserting the diet against M'Dougal, owing to the view taken of the indictment by the Court as containing a *cumulatio actionum*, and the exercise of their discretionary power in separating the charges, he said, "The question is now reduced to one of time and trouble; for if I do not proceed against her to-day, she will be proceeded against ten days hence. In such circumstances I shall not certainly insist now on that woman's being tried on this indictment. I shall proceed against her alone, since she now says that being tried on this indictment will prejudice her case." And again, almost immediately after, he added, "No motive shall induce me, for one moment, to listen to any attempt to smother this case; to tie me down to try *one single charge instead of all the three.* I am told that the mind of the public is excited; if so, *are they not entitled to know from the first to the last of this case;* and *is it not my duty to go through the whole of these charges?* I would be condemned by the country if I did not, and what to me is worse *I should deserve it.*" The Court, in giving judgment on the relevancy, fully recognised the propriety of this most distinct

and articulate pledge; for Lord Pitmilly unequivocally held, that it was competent to try Burke on all the three charges, and that the Public Prosecutor should proceed with the first and then with the others. Lord Meadowbank, entirely concurring in this view, expressed his opinion, that while their Lordships sustained the indictment, they should "direct the Lord Advocate to proceed separately in the trial of the different charges." Lord Mackenzie and the Lord Justice Clerk acquiesced in this suggestion, and, in fact, it ultimately became the judgment of the Court. Fortified by such authority, the Lord Advocate accordingly reiterated his pledge in his address to the Jury, and in terms equally emphatic and unequivocal. Now, we would simply ask the writer before us, Was this sacred and solemn pledge redeemed? Were "all the three" charges tried? Were they gone through from first to last? Did the Prosecutor do his duty according to his own view of it, by going "through the whole of these charges?" He cannot answer in the affirmative. By moving for, and obtaining judgment against Burke on the conviction under the first charge, he rendered it impossible for himself to redeem his pledge; and two of the charges were, in consequence, dismissed without investigation. Now, was this not an error in judgment, which is all we ever alleged? Nay, was it not an error calculated to place the Prosecutor in a very embarrassing position in reference both to his own pledge and to the public? It is true the apologist says that trying Burke upon the first and second charges, after he had been convicted on the third, would have been "like pouring water on a drowned mouse." But we cannot say we admire either the elegance or the felicity of this illustration. The question is not one that concerned Burke, whose fate was in fact determined by the con-

viction under the third charge. It concerned the Lord Advocate and the country alone; the former as having become bound to try "all the three" charges; and the latter as, by his Lordship's admission, "entitled to know them from first to last,"—a knowledge which his Lordship conceived it to be his "duty" to afford, and which he would be deservedly condemned by the country if he did *not* afford. But the writer adds, that taking any further proceedings was calculated "to excite the feelings of the public unnecessarily and without object." We are really surprised that any person could have been found short-sighted and ignorant enough to hazard such an assertion. What! was the exposure of one murder, and the quashing of all investigation into the circumstances of other two, calculated to *allay* the excitement of the public mind; or rather, was it not calculated to produce the very opposite effect? A corner of the veil only had been lifted up; a glimpse merely had been given of crimes which this very writer himself describes as "destined in point of atrocity, to stand alone, and in advance of every other that man has hitherto been known to commit," and as covering up from the view "the very outposts and limits of human wickedness; and then the curtain was suffered to drop on others which it was equally necessary that the public should know, and which they were equally "entitled" to have fully and thoroughly brought to light: this was the course pursued; ample scope was given for the imagination to work, under the influence of an undefined apprehension; and yet we are gravely told that this was the most approved mode which could have been adopted to prevent an unnecessary excitation of public feeling! Has it been attended, we would ask, with any such results?

Next, as to the unquestionable title of Daft Jamie's mother to prosecute Hare for the murder of her son, with concourse of the Lord Advocate, which concurrence his Lordship may be compelled to give, our learned opponent remarks, that "this seems very novel doctrine." We certainly do not hold ourselves bound to instruct our opponent in the first principles of criminal law; but, for the sake of a public purpose, we shall endeavour to show that the doctrine we maintain, so far from being "novel," is *tritissimi juris*, one of the most common and most thoroughly settled principles in our criminal code. To entitle a private party to prosecute, he must have an *interest*, not remote or feeble, but immediate and powerful in the cause; the wrongs alleged must be wrongs done to the *person*, and "of a high and aggravated kind, such as may naturally excite strong feelings of anguish and resentment in the minds of the *kindred* of the sufferer;" an oath of calumny must be taken by the prosecutor, if required by the party accused; caution must be found to insist in the prosecution; and the law also subjects the private prosecutor in expenses, and even in penalties, if he insist in a groundless or malicious accusation. Now has not the mother of Daft Jamie an *interest* in the prosecution we point at? Was there not a wrong done to the *person* of her innocent child who was foully murdered? May she not with perfect safety take the oath *de calumnia*, if required? And is it impossible for her to find caution to insist, and to find means to defray the expense of the prosecution? The public, with their usual generosity, will, we doubt not, give a practical answer to the last of these queries; and as to the others, we profess ourselves unable to discover that we have proponed any "novel doctrine."

Again, we said the Lord Advocate might be compelled to grant his concurrence in such circumstances; and we think Mr. Burnett and Mr. Baron Hume will amply bear out our assertion. The former, after stating at length the conditions above briefly indicated, says, it is perfectly understood "that his Majesty's Advocate *cannot refuse* his concourse, and *may be compelled to give it*, in all cases where the complaint of a private party is founded on a known and relevant *point of dittay*, (murder for example) and as to which he has *prima facie* a *title* to insist." pp. 306-7.—And Mr. Baron Hume is, if possible, still more explicit on the point. After stating that the Lord Advocate may refuse his concourse, if it be asked to a charge of witchcraft, which a statute has expunged from the list of crimes, or of treason for which no private party can prosecute, or of murder at the instance of some stranger, who does not even allege that he is anywise related to the deceased, he goes on to say, "On the other side, certainly the Lord Advocate is not the absolute and accountable judge on such occasions; but is subject to the control and direction of the Court, *who will oblige him to produce and justify the grounds of his refusal to concur.* Nay more; except in such extraordinary situations as those above supposed, *he shall not even be allowed to engage in any inquiry concerning the merits of the case, the propriety of the prosecution, the form of the action, the sufficiency of the title, or the like*, BUT SHALL BE ORDAINED TO COMPLY STRAIGHTWAY; *leaving the discussion of these matters for the proper place and season, after the libel shall be in Court.*" Vol. II. pp. 123-24. Lord Alemore's opinion, given on the complaint of Sir John Gordon against his Majesty's Advocate, June 21, 1706, is equally precise: "Had the Advocate refused his concourse, *he might have been compelled to give it*, for every one is entitled to

justice; but he cannot be forced to prosecute." Maclaurin, p. 298. Is there any "novel doctrine" in all this?

But our opponent endeavours to complicate the matter by most disingenuously attributing to us a statement which we never made, or even so much as dreamt of, namely, that the mother of Daft Jamie, "*taking advantage of the disclosures made by the infamous Hare, under* PROMISE *of pardon*," is entitled to prosecute him with the concurrence of the Lord Advocate. The artifice is paltry enough; but our answer is, that the rights of the private party, who, as such, "is entitled to justice," cannot be in any manner of way læsed or impaired, far less destroyed by any previous proceedings of the Prosecutor, in his public capacity; especially when these proceedings are in the eye of the law illegal, and only winked at upon a principle of utility or general expediency. What, in the name of common sense, of reason, and of law, had the mother of Daft Jamie to do with the disclosures made by Hare to the Lord Advocate "under *promise* of pardon?" That "promise" may be good against his Lordship himself; but it is utterly monstrous to pretend that it can in any way affect the rights of a private party who comes forward to prosecute; which it would unquestionably do, in the most serious manner, were his Lordship to be held entitled, in virtue of that most injudicious promise, to refuse his concurrence. Nay, we maintain, on the authority of Mr. Baron Hume, that it would be illegal in the Lord Advocate, when his concourse was applied for, to take any such circumstance into his consideration at all; for it is expressly laid down in the passage already quoted, that his Lordship "shall not even be allowed to engage in any inquiry concerning the *merits*

of the case; the *propriety* of the prosecution, the *form* of the action, the *sufficiency* of the title, or *the like;* all these are *jus tertii* to him; and, accordingly, the Court would "ordain him to comply straightway; leaving the discussion of these matters for the proper place and season, after the libel shall be in Court." This, we should think, is not very "novel doctrine;" and as no man, we are assured, "would be more happy to think our reasoning without flaw, than the Lord Advocate," (which we well believe,) we humbly hope that the exposition we have now given will be found to answer that condition.

These then are the main points of our case; and we flatter ourselves that we have made them out. But as we are resolved to engage in no further controversy on the subject, and therefore wish to clear off our score at once, we shall take the liberty of adverting, before we conclude, to one or two points of secondary importance, on which our opponent strenuously insists.

And, in the first place, he persists in maintaining that "had Hare and his wife not been witnesses, there is the *best reason for supposing* that the conviction of none of the four would have been obtained." We would have been much better pleased, however, had this incurious apologist condescended to inform us in what this "best reason for supposing" consisted; as we confess our own inability to discover a shadow of "reason" for the "supposition" so gratuitously made. The point, we are well aware, is an important one for our opponent; because, unless he can make out that there was no case against Burke, without the evidence of Hare and his wife; in other words, disprove our argument that there was sufficient testimony to convict without the evidence of the

accomplices at all, then our conclusion is inevitable, that Hare and his wife ought to have been at the bar, and not in the witness-box. But, strange to say, although the point at issue is so important to the justification which our adversary labours to make out, he has not ventured to bring forward a single argument, or show a vestige of "reason" or authority, for the opinion he so strenuously asserts. We shall not, however, follow his example in this respect, but state as shortly as possible the grounds upon which we hold that Hare and his wife ought to have been placed at the bar beside Burke and M'Dougal.

The testimony of a *socius criminis* is good in law only in so far as it is corroborated by other testimony perfectly unexceptionable, or by circumstances of real evidence; and where it stands alone and unsupported, it is the duty of the presiding Judge to direct the Jury to pay no attention whatever to it. Let us apply this test to the evidence of Hare and his wife, and observe to what conclusion it will lead. The former, wherever he spoke to circumstances which fell within the knowledge of unexceptionable witnesses, differed from, or rather was flatly contradicted by them; and consequently his evidence in regard to these was of no avail whatever, except to impeach his own credibility. Again, he was contradicted by his wife in respect to several of the occurrences in Burke's and Connaway's on the evening of the murder; and both were contradicted in regard to other matters in which they agreed, by the unexceptionable witnesses. As to what they said in regard to matters concerning which no other person could speak, they stood alone and unsupported, and of course were not in law entitled to be believed; while they were farther discredited by the

want of all corroboration in regard to circumstances spoken to equally by them, and by the unexceptionable witnesses. How then was it possible that any weight whatever could be attached to such evidence, either by the Court or the Jury, particularly the latter? Two miscreants, whose only title to be believed was their having been engaged in the commission of three murders, are adduced as witnesses to speak to one of them, and wherever their testimony is susceptible of being corroborated, it is flatly and pointedly contradicted by persons who are above all suspicion; and where it stands alone and unsupported, it is in the eye of the law worth nothing. Why, then, were such witnesses adduced at all? They were not necessary, because their testimony was not and could not be believed; and, in point of fact, their depositions served no other purpose, except to enable the Dean of Faculty to plead what would have been otherwise nearly an unpleaded case, and to point out such a formidable array of flagrant contradictions as to shake the minds of the Jury in regard to the effect of the unchallenged and unchallengeable testimony. The case, therefore, was, in point of fact, made out against Burke by other evidence than that of Hare and his wife; and as the same evidence which led to the conviction of Burke, would have also led to the conviction of Hare at least, we have again to submit that that hideous wretch, if not also his wife, ought to have been placed at the bar beside his brother murderer.

We are accused of having blamed the Lord Advocate "for not having possessed the gift of second-sight;" and various other follies which seem to have entered the imagination of our opponent, when heated with his subject, are also laid to our charge. To these, however, we dis-

dain to offer any reply. We can well believe that the case opened upon his Lordship gradually, and that, had he now to retrace his steps, he would, in many respects, act differently from what he has done. With the very best intentions in the world, a Prosecutor may be placed in such circumstances as almost inevitably to lead him to bungle a case: but surely it can be no very heinous offence to point out such errors as a warning for the future, and at the same time to show how even at present they may be in a great measure remedied.—"The very head and front of our offending hath this extent—no more." It is true, we called for further investigation, and we did our best to indicate what channels ought to be explored. That call has been answered, and inquiries have been set on foot which can scarcely fail to lead to important results. In regard to the nature of these inquiries, or the facts which have been elicited, we are for the present dumb. Our object is to aid, not to thwart, the progress of judicial investigation; and no wish to gratify the public curiosity, or any other motive indeed shall induce us to breathe a whisper calculated to defeat the great and necessary purpose which the Public Prosecutor is now labouring so zealously to accomplish.

In order to give a connected account of the preliminary legal proceedings respecting the contemplated trial of Hare, we shall delay introducing the subject at present. In a future number a detail of the whole proceedings will be given.

We now proceed to detail the particulars which we have carefully collected, with respect to the lives and characters of the several individuals who have been concerned in these nefarious transactions. Of these, the first we shall notice is,

## WILLIAM BURKE.

We can pledge ourselves that every circumstance that is here narrated, has been obtained from such sources as to leave no doubt of its authenticity; it will be seen that while this memoir is a great deal fuller than any one that has appeared, it is also dissimilar, in many particulars, to the disjointed fragments that have been from time to time published; how these have been obtained, we cannot say, but we can aver that this account has been received from sources which may be relied on, and much of it from the unhappy man himself, indeed so much as to entitle us to say that it is almost his own account.

William Burke, whose crimes have condemned him to an ignominious death on the scaffold, describes himself, in his judicial declaration, emitted before the Sheriff-substitute of Edinburghshire, in relation to the cause for which he was tried, as being thirty-six years of age. He was born in the parish of Orrey, near Strabane, county of Tyrone, in Ireland, about the year 1792. His parents were poor, but industrious and respectable in their station, which was that of cottiers, occupying, like the most of the peasantry of Ireland, a small piece of ground. The Irish are remarkable for the avidity with which they seek education for their children, under circumstances in which it is not easily attainable. The parents of Burke seem to have been actuated by this laudable

desire, as both William and his brother Constantine, must have received the elements of what, in their condition, may be called a good education, and superior to what usually falls to the lot of children in their rank in Ireland. He was educated in the Roman Catholic faith, which he has ever since nominally adhered to, though with little observance of its doctrines or ceremonies. He is by no means, however, a person of the brutal ignorance or stupid indifference that his callously continuing in a course of unparalleled wickedness, apparently without compunction, would betoken. He has sinned deeply, but it has not been altogether against knowledge, as he could at times put on a semblance of devotion; and during the fits of hypocrisy, or it may be, starts of better feeling, before he became so miserably depraved, his conversation was that of a man by no means ignorant of the truths of Christianity, and such even as to lead some to imagine him seriously concerned about his eternal salvation. During one of these temporary ebullitions about five years ago, he became an attendant on a prayer-meeting held on the Sabbath evenings in the Grassmarket. He was, for some time, remarked as one of its most regular and intelligent members. He never omitted one of its meetings, and expressed much regret when it was discontinued. As a Catholic, he was considered wonderfully free from prejudice, frankly entering into discussions upon the doctrines of his church, or those of other sects, with whose tenets he showed some acquaintance.

He read the Scriptures, particularly the New Testament, and other religious books, and discussed their merits. On a Sabbath, especially though he never attended a place of worship, he was seldom to be seen without a Bible, or some book of devotion in his hands.

At that time no one of his acquaintances would have admitted the idea for a moment that he was capable of committing such infamous crimes, and probably his own mind would have revolted at the contemplation of such enormities; but a continued indulgence in sin produced in him its never failing consequences in hardening and deadening the heart, and fitting it for the perpetration of deeds, which a little before the sinner would have shuddered at.

Burke was remarked to be of a very social and agreeable disposition, with a great turn for raillery and jocularity, and what from his after proceedings could scarcely have been supposed, was distinguished not only as a man of peculiarly quiet and inoffensive manners, but even as evincing a great degree of humanity. Of this *softness of heart*, a singular instance is given by an acquaintance and near neighbour, whose child Burke was remarkably fond of, and used to caress much. The little boy chanced, during the time he lodged in the neighbourhood, to be afflicted with a tumour and gathering on the neck, and his mother took him to a neighbouring dispensary. The medical attendants there considered it advisable to open the gathering, which was done. Upon the mother's return home with the child, she informed Burke of what had taken place; he appeared very much affected at the recital, and said repeatedly that he could not have witnessed the operation; that the mention of it made his flesh creep, and expressed great surprise that the mother could be so cruel as to permit and witness it.

At an after period, in Peebles, he still made considerable pretensions to religion, as the subjoined note testifies.*

* As every thing relating to the ruffian Burke, may be interesting at present, we add the following particulars about him, during his residence in the parish of Peebles.

It is from an intelligent correspondent of the Saturday Evening Post, who mentions, "On my first visit to his house, he had one or two religious books lying near him, which he said he read; being at that time confined by a sore leg." Somewhat inconsistent with this pretended sanctity, is the other part of the intelligence, that, "on Saturday nights, and the Sabbath days, his house was the scene of riot and drunkenness with the lowest of his countrymen." In his confessions, published in the Caledonian Mercury, the following testimony, borne by himself, as to his religious feelings, appears:

"He states, that while in Ireland, his mind was under

He, and Helen M'Dougal, resided in that burgh in the years 1825 and 1826, and part of 1827.

I find, says our correspondent, that he is a native of Armagh, in the north of Ireland, that he was a Roman Catholic, was a labourer, and employed in working on the roads and in cutting drains.

He made considerable pretensions to religion, as I recollect on my first visit to his house he had one or two religious books lying near him, which, he said, he read, being at that time confined by a sore leg. He seemed a man of quiet manners, and, on my questioning him about his country and profession, there appeared a mystery about him. Since he has gained a guilty notoriety, I have made inquiries among his neighbours about his character, and, I am informed, that he was an inoffensive man, but that he kept suspicious hours. On the Saturday night and Sabbath days, his house was the scene of riot and drunkenness with the lowest of his countrymen.

When he left this place, he owed the woman from whom he rented his room, between forty and fifty shillings. He was then going to the harvest, and promised to return and pay the rent, which he never did. On application being made to him afterwards, in Edinburgh, for payment, he sent word to the woman to meet him at the head of Eddlestone water, a wild and desolate part of the road leading from this place to Edinburgh. The meeting was to be at ten o'clock at night, when he would pay her. Recent disclosures have fully proved for what purpose such a meeting was to take place.

the influence of religious impressions, and that he was accustomed to read his catechism, and his prayer book, and to attend to his duties."

All his pretensions, however, seem to have had but little influence on his life and conversation, as he was all the time living in the flagrant violation of the plainest dictates of religion, a drunkard, blasphemer, and adulterer.

Burke originally worked as a labourer about his native place, assisting his father, and living in his house, until he attained the age of eighteen, when he left him. He then went as servant to a gentleman in the neighbourhood, but after being one year in this capacity, the gentleman died, when he was obliged to seek other employment.

At the age of nineteen, he entered the Donegal militia as a substitute, and served in it as a private soldier for seven years. In this regiment, his brother Constantine held the rank of a non-commissioned officer. During the greater part of his service, he acted in the capacity of an officer's servant; and from the propriety with which he acquitted himself, gained considerable respect.

It was at this period that he became acquainted with a young woman, of a respectable character, in Ballina, county of Mayo, to whom, after some time, he was regularly married. By her, he had seven children, of whom some were still-born. All of them, excepting one boy, are now dead. His wife still survives, and resides with her father in Ireland.

It is probable, that notwithstanding her good character, the connection was not a very comfortable one, for

her. He proved unfaithful to her; and this is a vice which must have marred their domestic happiness. Indeed, even at his best time, he appears to have displayed considerable laxity in his intercourse with women.

At the general peace, his regiment was disbanded, along with the rest of the militia forces. He then went with his family to reside in the county Mayo, in the neighbourhood of his father-in-law. He was also in the same class as Burke's parents, and possessed a small farm, which, in conformity with the custom in Ireland, he was willing to parcel out to his family and connections. The system pursued in that country, of the lessee or tacksman, of what originally is, perhaps, a very small farm, sub-leasing miserable portions of it to an indefinite number of retainers, is now so universally understood, that it is unnecessary here to explain it. In a country swarming with an unemployed population, and when so many additional claimants for the most wretched patch of potatoe ground, had been superadded by the reduction of the army, to the already redundant population, it must have been no slight good fortune in Burke, to find a father-in-law whose farm could still afford sustenance for another family. He does not seem, however, to have been contented with the permission that was allowed him to cultivate, from year to year, for his own behoof, the share that was allotted to his use, and insisted upon having a lease granted him. This the old man peremptorily refused, on the allegation, that his object, after obtaining the lease, was to sell it and desert his family. This difference led to squabbling between them; and after it had continued for some time, Burke finding that there was no probability of gaining his point, abandoned the project, and deserted his wife and family.

After taking leave of his parents, he came to Scotland in 1817 or 1818. He then engaged as a labourer, on the cutting of the Union Canal, soon after its commencement; and subsequently wrote to his wife in Ireland, but she would not receive the letter. After some time it was returned to him, and with this, all intercourse with his family ceased, never to be renewed. He has ever since, however, spoken in respectful terms of his wife, and several times expressed an intention, when he could get matters arranged, of returning to her; but motives are seldom wanting, for a continued indulgence in a favourite sin, and want of clothes, to make a respectable appearance, when he joined her, or some other frivolous pretence, constantly diverted him from his purpose.

While employed upon the Union Canal, he accidentally met the woman M'Dougal at the village of Middiston in Stirlingshire, where she was residing with her father after the death of her husband. The story told of his falling in with her on the streets of Glasgow is incorrect. An intimacy was speedily formed, and about a year from the commencement of their correspondence, they agreed to live as man and wife, and have done so ever since.

A similarity of disposition seems to have produced a corresponding affection, and the sympathy that attracted them to each other appears still to have outlived all their quarrels and the ill usage he subjected her to. They have expressed great attachment to each other since his conviction. It is understood that an account of his connection with M'Dougal, while his wife was still alive, having been made to the priest of his religion, he was

first admonished, and recommended to return to her, and upon his refusal to do so, was excommunicated. This may perhaps in some measure explain his not attending chapel while his religious fits were upon him.

He, after the completion of the canal, came, along with M'Dougal, to reside in Edinburgh, and engaged in the petty trafficking in various sorts of merchandise practised by many of his countrymen, travelling about the country in prosecution of his trade. He dealt in different sorts of pedlary wares, old clothes, &c. and collected skins, human hair, &c. in the country.

During the work on the canal, he had been noted among the other labourers as of a particularly handy active turn, and skilful in cobbling, in a rude way, his own and the shoes of his acquaintances. After his subsequent settlement in Edinburgh, he turned his talent to some account; and though he never had learned the craft and mystery of shoemaking, contrived to gain from fifteen to twenty shillings a-week by his new acquirement. His practice was to purchase quantities of old shoes, and, after cobbling them in the best fashion he could, to send M'Dougal to hawk them about among the colliers and poor people of her native district.

At this time he lodged in the house of an Irishman named Michael, or more commonly Mikey Culzean, in the West Port, who kept a lodging-house for beggars and vagrants, similar to the one which Hare's crime has made so familiar to the public,—in the language of the classes who frequent them,—a *beggars' Hotel.*

Many will probably recollect of a fire happening in one of these abodes of wretchedness about six years ago,

when incredible numbers emerged from the miserable hovels. In this conflagration Mikey's dwelling suffered, and Burke and M'Dougal escaped from the flames nearly naked, and with the loss of all the little property they possessed. Some charitable individuals contributed to procure clothes and necessaries for the sufferers, and they received some relief by the hands of the Rev. Dr. Dickson, one of the ministers of the parish. By this disaster he lost his library; and though it is somewhat surprising to hear at all of a collection of books under such circumstances, it is not the less so when the names of some of the works are mentioned. Among them were, Ambrose's Looking unto Jesus, Boston's Human Nature in its Fourfold State, the Pilgrim's Progress, and Booth's Reign of Grace. His landlord afterwards took a room in Brown's Close, Grassmarket, where Burke also again went as a lodger.

It was at this time that he attended the religious meeting we have previously mentioned, which was held in the next apartment to the one in which he lodged. During his attendance he was always perfectly decorous in his deportment, and when engaged in worship had an air of great seriousness and devotion. The conductor and frequenters of it had formerly been subjected to much obloquy, and even violence, from the Catholics who abounded in that neighbourhood; and one evening, after Burke's attendance on it, his landlord, Mikey Culzean, attempted to create annoyance, by breaking through some sheets of paper which were used to cover up an old window, and crying out in a voice of derision, "that the performance was just going to begin." Burke expressed himself in indignant terms on the occasion, saying, that it was shameful and unworthy of a man to behave in such a manner.

From the general aversion to the meeting so unequivocally manifested by the Catholics, and Burke being universally known to belong to that persuasion, his frequent attendance on it, and reverential behaviour, excited the more notice. It was usual for him to remain conversing with the individual in whose house they assembled after the others had dispersed; and on these occasions the subjects that had occupied their attention during the service naturally were often talked over. His conversation was generally such as to show that he had been attentive to what was passing, and comprehended the topics brought under his notice. Since his conviction he has adverted frequently to the subject, and deplored that the meetings had been discontinued, as even this imperfect form of public worship had a tendency to keep him from flagrant sin. He has kept in his recollection, and mentioned after condemnation, an expression which was used in one of the exhortations—"that there was no standing still in sin." His career of guilt, gradually advancing in the commission of crime, until the violation of every human and Divine law led him to most flagrant enormities, has awakened him, by bitter experience, to give his unwilling testimony to the justice of the remark.

During his residence in this neighbourhood, he gave no indications of any thing that would lead people to anticipate his future enormities. He was industrious and serviceable, inoffensive and playful in his manner, and was never observed to drink to excess. He was very fond of music and singing, in which he excelled, and during his melancholy moods was most frequently found chanting some favourite plaintive air. All these qualifications, and his obliging manner, joined to a particularly jocular quizzical character, with an intermi-

nable fund of low humour and drollery, rendered him a general favourite. His custom was to take a walk almost daily along the streets with an acquaintance, and freely to interfere in any thing which occurred to indulge his humour. Some of these occurrences are still recollected by his companions in his perambulations, a specimen of which, as every thing concerning him now seems to possess interest, may be given. In passing along the Cowgate on one occasion, his musical ear was annoyed by the continued inharmonious cry of an itinerant vender of salt. Upon her approaching him still nearer, the annoyance reached its climax by her drawling out in discordant sounds her reiteration of "*wha'll buy saut;*" though flinching under it, he turned and replied with his usual politeness, "Upon my word I do not know, but if you will ask that woman standing gaping at the door opposite, she will perhaps be able to inform you."

On another occasion, when attacked by a girl of the town in the High-Street, instead of replying directly to her solicitations, to the astonishment of the unfortunate girl, he commenced a torrent of abuse, on account of the awkward style in which she had painted her face, saying that he might have passed over the painting, had it been properly done; but that it was shameful to come to the street, bedaubed in such an unskilful manner. Such was the humour with which he continued his remonstrance, that the rude laugh of the crowd was effectually directed against the amazed girl, and she was glad, by a hasty retreat, to save herself from farther ridicule.

Though his conduct was such as has been described, and even to his paramour, notwithstanding her irregular habits, partook most frequently of his general charac-

ter. Yet on several occasions, he subjected her to ill usage, or sometimes rather, perhaps, returned her violence, by relentlessly beating her. A fruitful source of quarrels, was his propensity for the company of loose women, which, when exhibited, never failed to rouse her jealousy. The most common subject of it, was a near connection of her own, whose virtue was not of an immaculate description. She was, however, a great favourite of Burke's, and often was introduced into the house. In one of these squabbles, a result was nearly produced, which might have terminated both their lives, in a somewhat less notorious manner, than his is likely to be, though more conducive to the public safety, than his after impunity was, and exhibits the latent savageness of his disposition, notwithstanding the fair exterior. One evening, Burke, M'Dougal, and the female already mentioned, had gone to bed together. In the night, some jealousy had arisen between them, and a battle was the consequence. So long as the conflict was maintained on nearly equal terms, Burke contented himself with witnessing it; but, when the elder virago was likely to master the young one, he rose out of bed, and interfered in behalf of his favourite. His interposition speedily turned the scale, and he inflicted an unmerciful thrashing upon M'Dougal. The neighbours who had heard the uproar, but as usual, were backward in interfering, were now alarmed by the cries of an interesting little girl, a daughter of M'Dougal's by her former husband, who lived with them, and who entreated them to assist her mother, as William Burke was murdering her. Upon hastily rising and opening their doors, they found M'Dougal extended on the floor of the passage, apparently lifeless, with her brutal companion standing by, contemplating her. After some time, she exhibited signs

of life, when, again seizing her by the hair, and uttering a horrid imprecation, he exclaimed, "There is life in her yet," and dashed her head violently on the floor. The police watchmen had by this time, been made aware of the noise, and arrived immediately after this fresh inhumanity. Upon asking Burke, if the woman was his wife, he again assumed his usual mild manner, and in an insinuating tone said, "Yes, gentlemen, she is my wife."

After living for a year in Brown's Close, he removed, still as Culzean's lodger, to Swan's Close on the opposite side of the Grassmarket, where he resided for some time still cobbling and pursuing the same course of conduct. About this time, his acquaintance with the individual who has furnished us with some of the above particulars, suffered an interruption. Burke, although so liberal in his intercourse with Protestants, had still enough of Catholic feeling, as to take exceptions to his friend's attending Orange lodges, and a coolness in consequence ensued.

After leaving Swan's Close, he went to Peebles, where he settled for some years. He was employed there as a labourer, and went daily to road-making in the neighbourhood of Innerleithen.

Here, although he still maintained some pretensions to religion, we can trace a gradual deterioration in his character. From the note formerly given, it will be seen that he was now distinguished for keeping suspicious hours, and that his house was the resort of profligate characters, and noted as the scene of drunkenness and rioting, especially on Saturday nights and Sundays.

From thence he went to Pennicuik, where his conduct and occupation were much the same, working generally as a labourer, and occasionally following his self-taught occupation of mending shoes.

After the harvest of 1827, he, still accompanied by M'Dougal, came again to reside in Edinburgh, and it was at this time that he first became acquainted with the monster Hare, who was his tempter to these unhallowed deeds, and his teacher, as well as seducer. He came to live in Hare's house in Tanner's Close, West Port, which was kept as a lodging house by his wife, under the name of her former husband Log. In this abode of profligacy and vice—the resort of vagabonds of every description, and the theatre of continued brawling and drunkenness, it is not surprising that every trace of decent feeling that might still have lingered about him should speedily be dispelled, and his mind be properly tutored and prepared for the commencement of the murderous trade in which he so ruthlessly continued for nearly twelve months.

An intimacy was speedily contracted between Hare and him, and to show the vile footing on which the two families lived, we may here relate an anecdote which was communicated by a respectable neighbour of theirs, who called on Burke with the intention of giving him a job as a cobbler. He found Hare most brutally beating the woman M'Dougal, who was lying on the floor, and Burke unconcernedly sitting at the window. He asked Burke why he suffered another man to beat his wife? to which he replied, "She well deserved all she was getting."

Burke still, however, maintained a more respectable character than any of his partners; Hare was a rude

and ferocious ruffian; his wife was a meet companion for him; and M'Dougal was very little behind them in drunkenness and profanity. He continued, (unlike the other three) to work a little at his business, in the inner small apartment. The person who now shows Hare's house is, along with his other avocations, a dealer in old shoes, and used to employ him to mend them up for sale. The stock of boots and shoes which was found in Burke's house upon their arrest, and which excited so much speculation, belonged to him.

Previously to his becoming an inmate in Hare's dwelling, he had been in the habit of engaging in harvest work, first at Mr. Howden's, an extensive farmer in East Lothian, and subsequently with Mr. Edington, farmer at Carlinden, near Carnwath, where Burke and Hare, with their two women, wrought last harvest.

Of Burke, it had been observed, that he seemed to be a polite, obliging, and industrious person. In rainy weather, while the reapers could not work in the fields, it was usual for him to find out some useful service, which he performed at the farm-steading; so that he was seldom, if ever, idle. Whenever it happened that a servant had any heavy article to lift, he, of all the harvest people assembled in the kitchen, was the foremost to offer his assistance. On a young woman's mentioning that she had never seen Edinburgh, the same courteous Burke invited her to town, saying, that he would give her a lodging in his own house, and that he would show her the city; but, fortunately, she never had an opportunity of availing herself of his kindness. After a stay of a few days at Carlinden, a letter arrived, which was said to announce the illness of a child of Hare's, in

Edinburgh; the parents began to arrange for their returning homeward, when M'Dougal remarked, that "if Hare goes, William Burke will go too, for they are like brothers, and cannot be separated." Accordingly, all the four went off together.

While he resided in the West Port, he was remarked to be a very early riser, frequently appearing on the streets in his working dress, on a summer morning by three or four o'clock; some who were also on foot at these early hours, used to observe him, and taunt the shoemakers of the West Port with the observation that the Irish lad was the most industrious man among them. It is probable that this activity was for a very different purpose to what was suspected.

The first dealing in subjects commenced in a manner which few would be inclined to visit with very great reprehension, and had the pair throughout confined themselves to similar exploits, they would probably have been regarded as adroit and ingenious knaves, perhaps more beneficially employed in furnishing the necessary supply of subjects in a manner which harmed no one, than from their bad habits they were likely otherwise to be.

In December 1827, the natural death of a lodger happened in Hare's house,—not of a woman, as has been erroneously stated, but of a very tall and stout man, a pensioner who led a dissipated good-for-nothing life. His debauched habits sufficiently account for his death, while yet in the vigour of life, without any suspicion of unfair agency being aroused.

After his decease, the ordinary observances were gone

through, and all matters fitly prepared for the funeral; a coffin was procured, and the funeral guests invited, and every thing managed in a decorous manner; the undertaker came, and while employed in fastening down the lid, was invited into the other room to recruit his strength by a dram, the coffin was then uncovered, and the corpse quickly dislodged and made to change situations with a sack of waste bark which had been previously procured from a neighbouring tannery. After this, the fastening proceeded. The coffin was borne out at the appointed time, before the assembled guests, and with all due solemnity deposited in the Grey Friars church-yard. The rogues, after the ceremony, proceeded to find out a purchaser for the body, and so unacquainted were they with the manner of proceeding, that they did not at first apply to the proper quarter. Throughout the day, however, they found this out, and at dusk the subject was conveyed away in the sack which had held the bark, and was carried on Burke's back. Their first resting place was at Bristo Port, where it was set down for a little, when Hare took his share of the burden. They then took the round-about road of College Street to Surgeons' Square. They soon afterwards, however, found out the nearest way.

After all that has been said, subjects must be procured for scientific purposes; the necessity of a young man under a course of education for surgical practice qualifying himself for his future profession by anatomical dissections, renders them indispensable, while the very ordinances and regulations of the College of Surgeons, makes dissection imperative before he can obtain a diploma or license to follow his profession. Were all subjects procured in this harmless way, where neither the feelings of

private friends were outraged, nor public decency violated, small fault would be found, though the nature of the traffic would continue still sufficiently revolting to deter all but ruthless blackguards from embarking in it.

But after once gaining what to them was a large sum of money, Burke's and Hare's cupidity could not be satisfied with this comparatively innocent method of supplying their wants. They were apparently too indolent or inexpert, or lacked courage too much, to adopt the ordinary but hazardous mode of raising the dead from church-yards. Still, with this easy, and apparently unlimited means of acquiring money opening to them, they could not betake themselves again to the pursuits of honest industry; and, stimulated by the greatness of the reward, and the prospect of their sensual indulgences being so readily gratified, they formed the desperate resolution of committing murder, and of continuing to imbrue their hands in their fellow-mortals' blood, as their ordinary and sole means of procuring a livelihood.

Before commencing the revolting narrative of their appalling crimes, we may mention, that previous to the period in which they engaged in them, their neighbours used to observe them only to notice the squalor and wretchedness of their appearance; but all at once, there was a sudden change, and Burke and M'Dougal especially assumed a different aspect. They appeared well dressed, and spent money freely. Whisky, which however much it may be relished, can only be procured at intervals by men in his situation, seemed to be constantly at their command; and even credit at a neighbouring spirit-dealer and grocer's, was obtained, to an extent that al-

most no individual in his situation would have ventured to hope for or request. At this time, Burke mentioned to the wife of an old acquaintance, whom he met accidentally, that he had spent fourteen pounds within the last fortnight; and if he had known where her husband lived, would have been glad to come and spend three or four pounds in company with him. Of course, all this apparent affluence was not exhibited, without exciting the speculation of those who observed it; and they were troublesome in their inquiries into the secret, that enabled them to live well, and drink continually, without working. Various were the excuses that were made; for they never appear to have been at a loss for an answer. On one occasion, when the question was put to Burke, and suspicions intimated, that he followed the trade of a resurrection man, he neither would give a denial nor an affirmative to the proposition, but contented himself with remarking, that the querist was as bad as the rest. On another, he would ask Mrs. —— "Can you keep a secret," and when the curious inquirer, expecting to be entrusted with the whole mystery, eagerly answered, "Yes," he would reply, with an air of secrecy, that he smuggled a little small-still whisky.

Nelly M'Dougal had a different way of accounting for it. She averred that she had a property in Stirlingshire, which had been left to her by her former husband, and which produced twenty pounds a year; and that it was from the rent of it the money came. It was afterwards observed to her by some of the neighbours, that this story would scarcely account for their abundant supply of money, as the rents of such properties, as she described, were usually drawn at definite terms, and they seemed to get money much more frequently. She then alleged that the

money was the proceeds of a legacy that had been lately left her, and that she drew part of it when she pleased. To humour this story, she used to announce to her acquaintances, from time to time, that their money was expended, and that she had written off for a fresh supply. In a few days, accordingly, she intimated that the money had arrived, and new vigour was imparted to their drunken disorderly courses.

It must be perfectly apparent what the dispatching of the letter meant, and if these proceedings does not amount to a guilty knowledge and accession to the murders, so far as knowledge of, and sharing in the proceeds goes, we do not comprehend what can constitute participation.

At another time she intimated that William [Burke] was the favourite of a lady in the New Town, who never allowed him to want money, and sometimes she had known him receive twenty pounds at a time from her.

Burke states, that Hare and he had often talked over the subject of murder, and had consulted upon the best mode of effecting it. It may well be credited, as their first essay seems to have been conducted with as much coolness and deliberation, as much cautious management in effecting it, and as little compunction in the execution, as if they already had been adepts in the art. It was perpetrated on an elderly woman, belonging to the village of Gilmerton, whom Hare had observed a little intoxicated on the streets. She was a pensioner to a gentleman in the New Town, from whom she received 1s. 6d. a-week. Hare accosted her, and easily succeeded in enticing her into his house, here they gave her spirits to drink, and afterwards Mrs. Hare, purchased, for one shilling and sixpence, a small

cann of *kitchen fee* which she had received at the house of the gentleman already mentioned. The price of it was also laid out in liquor, and the poor woman speedily got altogether intoxicated, and commenced singing in the exuberance of her mirth. She told them that she had a very fine young daughter at home, and, with maternal feeling, was loud in her praises. Hare represented himself as an unmarried man, and said, that upon her representation, he would marry her daughter: The poor woman readily consented to the match, when the heartless fiend, expressed great kindness for her, and alleged that his bride and he could not live without her, and that when the daughter came home, she must come to reside with them. She willingly consented to this arrangement, and expressed herself quite overjoyed at meeting with such a good provision for herself and daughter, and promised to return and get the marriage consummated. They took care to ply her well with liquor, in order that being made completely drunk, she might remain after the other lodgers had departed in the morning. Next day, the spirits had the effect, and she was sick and vomited. The monsters had not abandoned their purpose, however, and after stupifying her with more whisky, when all the others had left the house, they put her to death in the way they pursued ever afterwards, by covering and pressing upon the nose and mouth with their hands. The body was afterwards conveyed to Surgeons' Square, and the money readily obtained for it. This happened in December 1827.

In the whole story, we see none of the hesitations and misgivings of men engaged in a first attempt, at such a horrible crime; every thing appears rather like the acts of those, whom long familiarity with a course of iniquity had rendered completely callous; and yet

there does not seem any sufficient ground for supposing that either of them had been engaged in such crimes before. Burke asserts strenuously, that he never was concerned in like transactions, and expresses his belief that Hare also was guiltless up to this time, so far as he knows, of the blood of his fellow-creatures; and, after what has happened, he assuredly will not be much inclined to favour Hare. This opinion is also corroborated, when we recollect that they proceeded like novices in the disposal of the pensioner who died naturally.

The next unfortunate victim to be inserted in the horrid catalogue was an Englishman, a travelling pedlar or *packman*, who had lodged also in Hare's house. The process which they had now ascertained to be most easy and efficacious was also gone through with him. He was enticed to drink to intoxication at night; and when the house was cleared, he was suffocated in the usual manner.

Success in these instances made them more eager, and Burke describes himself at this time as thirsting continually after his prey.

A connected or chronological account of their murders cannot now be obtained; the copartnery kept no books to which reference can be made, and were not curious in inquiring into their victims' names or circumstances; but such distinctive marks of every one of them has been furnished, as to enable us to lay before our readers some notice of all the individuals murdered, though it may not perhaps be exactly in the order in which they occurred; even in this particular, we believe, it will be found nearly correct. They in all amounted to sixteen; fewer than what some have asserted, but far above what any one

could have conceived of before this atrocious system was unveiled. One of this number was effected by Hare at the time that Burke was absent in the country; how it was accomplished, remains only known to that demon himself, as it was only by accident that Burke discovered anything of it. It has been often said, that there is honour among thieves: this does not, however, seem to hold good regarding murderers, as Hare appropriated to himself the price of this subject; and upon being challenged by Burke for his breach of contract, audaciously asserted that nothing of the kind had taken place. It was only after his comrade applied at Surgeons' Square that the truth transpired. This is understood to have been the minister's servant, to which public attention has been attracted.

Another, and probably the third one sacrificed, was a dissipated character, who used to infest the Grassmarket and neighbourhood, called Mary Haldane; she was enticed into the house, and fell an easy prey; her previous habits caused her readily to imbibe a sufficient quantity of ardent spirits, and little difficulty was found in despatching her.

It is singular, that among their victims should be ranked a mother and her daughter, and at different times too, but so it is that the child of this Mary Haldane was kidnapped into the house where her mother had been formerly murdered—she was unconscious of her mother's fate, and was deprived of life in the same way. She was a woman of the town, and led a very dissolute life; one of her sisters was transported to Botany Bay not long before the murder of the mother and sister.

Among the rest, was an old man, who was usually

known by the name of Joe. He had been a miller, but old age and infirmities had incapacitated him from working at his trade. In an evil hour he entered Hare's lodging house, and never departed from it; he was also plied with liquor, and when in a drunken slumber, his breath was stopped.

Among the other melancholy stories, there is one of a peculiarly touching description, which Burke, remorseless as he has been, often talks of, and deplores as the one that hangs heaviest upon his conscience. It is that of the poor Irishwoman, and her deaf and dumb grandson, which has been already noticed, though incorrectly, in the newspapers. The poor woman, with her helpless charge, had been met by Hare on the street, and though her circumstances as a destitute country woman, and the protectress of the helpless boy, might have melted the hardest heart, he does not seem to have felt any compunction in marking her and her child out for slaughter. She was invited to the house, and to her seeming, hospitably entertained. She seemed perfectly well pleased, and even expressed to them the satisfaction she felt at her good fortune in meeting with a kind countryman, who behaved so generously to her, and in whose house she could repose safe from the dangers of this wicked town. But their feelings could not be touched by such appeals, and the unfortunate woman was put to death at night, and allowed to remain in bed as if sick or asleep. The youth did not comprehend what had taken place, but seemed to imagine that his grandmother was unwell. Next morning he was, almost charitably, dispatched also. Burke took him upon his knee, and broke his back. He describes this murder as the one that lies most heavily upon his heart; and says that he is constantly haunted by the recollection of the piteous manner in which the boy

looked in his face. The lad was laid in the bed alongside of his grandmother; and when the time arrived for conveying them to the dissecting-rooms, the bodies were tumbled into an old herring barrel.

A curious incident happened in connection with this murder which had well nigh put a stop to their career, and, in looking back upon the circumstances now, it appears astonishing that it should not have led to a complete discovery of their infamous transactions. The herring barrel containing the two bodies was placed on a cart. An old horse which Hare possessed, and which he used in his traffic in fish and crockery-ware was yoked to it, and the two set out at darkening to Surgeons' Square with their cargo. They proceeded along the West Port, without any thing remarkable happening, but when they reached the market-place at the entrance to the Grassmarket, the horse stopped, and, notwithstanding all their efforts, would not proceed a step farther. It may be easily conceived that they were in a sad quandary, with nothing before them but instant exposure. As Burke has since said, they "thought the poor old horse had risen up in judgment against them." Unfortunately for the public, though luckily for them, as it gave them a respite for some time longer, the assembled crowd were so much engaged in attending to the horse, that none of them thought of inquiring into the contents of the cart; and when it was ascertained that nothing could induce the horse to move forward, two porters were allowed to bear off his burden without attracting particular observation, and, like M'Culloch, they bore their load to the dissecting rooms without being troubled with any scruple upon the subject, or once venturing to ask either themselves or their employers what it was composed of. The miserable horse, which it is pro-

bable age and hard usage, and insufficient diet, had arrested in its progress, rather than any suspicions or unwillingness to comply with the assigned task, was, in revenge for the fright it had given its masters, and the trouble it had put them to, led to a neighbouring tannery and shot.

The subjects, however, reached their destination, and, notwithstanding this untoward event, and the imminent risk the guilty pair had incurred, the next opportunity found them as eager for slaughter as if no cause of terror or subject for reflection had occurred: indeed, by this time probably any feeling of compunction, which appears—if such ever existed—to have been of a very evanescent description, had disappeared. They had tasted the sweets of an abundant supply of money, and ample means of gratifying their sensual appetites, without the irksome operation of working for the necessary means; and it was not likely that any temporary alarm would divert them from practices which supplied all their wants. With their hearts seared, if such an operation ever was requisite, by the habitude which former crimes had given them, and assured by the impunity which had hitherto attended their speculations, it was unlikely that any scruples should assail, or any dread dismay them. Reflection was quite out of the question. Hare seems to have been both mentally, from original organization, and physically from his incessant use of ardent spirits, incapable of it; and Burke, though possessing a more active and acute mind, was yet endowed with an unstable rambling disposition, which incapacitated him from any continuous mental exertion. and besides, at this time he was in the constant habit of "steeping his senses in forgetfulness," and at the same

time banishing reflection and the warnings of conscience, by the indulgence of his inordinate appetite for stimulants.

Whatever might be their feelings, or whether they felt at all or not, the next opportunity found them actively engaged in what had now assumed the character of a regular trade. The narration must be proceeded in, and the disgusting catalogue gone through, however revolting to humanity, and we hasten to lay before our readers the remainder of the intelligence we have obtained respecting these murders.

Another one was effected upon the body of a poor old woman who had unhappily drank too freely, and not being in a condition to behave discreetly, had subjected herself to the surveillance of the police, who, as a last resource, were in the act of conveying her to the office; Burke happened to be in the way, and apparently commiserating the situation of the unfortunate woman, proffered his good offices in taking charge of her and furnishing her with a night's lodgings. The officers were doubtless glad to get their troublesome charge so easily off their hands, and readily acceded to his request; she was conducted to the ordinary slaughter-house, Hare's, and speedily put out of a condition to give any further annoyance to the police.

Another victim was a cinder gatherer, whose occupation caused her to wander about the streets at all hours, and while Burke prowled abroad at the early hour we have mentioned, many opportunities must have occurred to form an acquaintance with her, and we may suppose that little inducement would be requisite to cause her to leave

her wretched employment for a season, and partake of his good cheer: she was destined never to return to it.

If there be any gradation in their wickedness it appears more incredible and unnatural that a near relation of the one, and connection of the other, should have been selected as a sacrifice; yet it is well ascertained and admitted by Burke, that a young woman, a cousin of M'Dougal's was also put to death, after having been intoxicated. Some relations, we believe her mother and sister, after the nefarious system was developed, came to Edinburgh in fearful apprehension, endeavouring to ascertain the fate of her whom they had long anxiously mourned over, and applied at the house of Constantine Burke, when her relative Helen M'Dougal was present. She, in answer to their agonised inquiries, replied, that they need not trouble themselves about her, as she was murdered and sold long before.

One of the remaining murders was perpetrated on the body of a woman who came from the country, and took up her lodgings also in Hare's.

We have already given, at page 125-137, a description of the murders of Mary Paterson and James Wilson, or Daft Jamie, and it will be unnecessary here to repeat what has already been inserted. Burke has admitted, that he was intoxicated when he suffocated Paterson, and that it was done in the presence of Hare, while she was in a slumber, which the excessive quantity of spirits he induced her to swallow had produced. All legal proceedings regarding her may be considered to be at an end. Should it be resolved upon, however, to indict and try Hare for the murder of Daft Jamie, a farther development of some of the

circumstances connected with him may be anticipated. As it stands at present, we may assert that no additions can be made to the narrative formerly given. It is singular that he was the only individual murdered who had sense enough to refuse the liquor that was pressed upon him, and apparently the only one that they found any difficulty in dispatching. Burke has latterly, in allusion to this, remarked, "that they found more trouble with a sober fool than a drunk one."

During the progress of this wholesale butchery, Burke and M'Dougal removed from Hare's, or as it was more commonly called Mrs. Log's house, to that of a relation or connection of theirs, named Broggan, the father of the witness of that name. We cannot determine whether there had really occurred such a quarrel between Hare and them as to induce them to separate in disgust, as has been asserted, or whether it was imagined that another establishment would furnish additional opportunities for accomplishing their designs; but if a disagreement actually did take place, it had been of short continuance, and their operations appear to have suffered no interruption in consequence. It has been already stated, that Broggan's house presented admirable capabilities for carrying on the work, provided the inmates could be relied upon, but as it only consisted of one small apartment, this was indispensable. There was also the dark passage, furnishing a place of retreat for the women, when that should be considered convenient.

Previously to occupying their new lodgings, however, they seem to have spent a short time in Constantine Burke's house in the Canongate, as they were residing there when Paterson and Brown were enticed into it in April. Soon

after Whitsunday they removed to Broggan's house, and not long after commenced using it for the purpose that Hare's had been formerly applied to. A decent woman, the widow of a porter, named Ostler, who lived in the Grassmarket, and who had died shortly before, was the first victim in it. She gained her living in an industrious laborious way, mainly by washing and dressing, and eked it out by any sort of work she might be employed in, and during harvest engaged in country work. She had been accustomed to frequent Broggan's house in her vocation of a washer-woman, and was well known to the neighbours from her long residence about the neighbourhood, and from her often coming to Mrs. Law's, where she got her clothes mangled. One day she was observed to enter Broggan's house, and was noticed afterwards singing "Sweet Home" in company with Burke. This was the last time that she was seen. After having been persuaded to drink, she was dealt with in the usual manner.

Those who lived in the neighbourhood cannot divest themselves of the idea that Broggan, or at least his wife, was cognizant of this affair. Their characters were not good, he being a rude, brutal and drunken personage, who made the place the scene of a continued series of brawls; his wife also was not held in good estimation. The time of the murder, they argue is pretty well ascertained by the fact of Mrs. Ostler's having been known to enter the house, and never seen to depart, and her disappearance from her usual places of resort, as well as Mrs. Law's mangle, a place which her occupation required her often to visit; and it is alleged, that at that period, though Broggan might be out of the house, his wife could not, as she had lain in about the time. It is but justice, however, towards the Broggans to state, that Burke has never implicated them in any knowledge of

his nefarious proceedings, and in this particular case, he says, that the accouchment had taken place some time before the murder, and that Mrs. Broggan, as well as her husband, was absent from the house at the time.

Some time after Burke's coming as a lodger to this house, he became the sole occupier. Broggan had been unable to pay his rent at Martinmas, and Burke and Hare, who were cautioners for it, were under the necessity of satisfying the landlord. Broggan immediately after this decamped with his family, though it could not be to evade the landlord's claim, or from inability to meet it, as we have seen that the rent was already paid by his sureties. He left Burke in undisturbed possession of the house, and furniture.

After his removal, it might have been supposed that no inmate would have been admitted whose presence could possibly prevent the accomplishment of their designs; yet with strange inconsistency they shortly after invited Gray and his wife to lodge with them. It could scarcely have been with the hope of mastering them, as Gray appears too stout a man to have been attempted single-handed, even by both of the villains, and the notion of his being an accomplice is equally out of the question. It is true that when a "*a shot*," as their abominable cant termed it, was obtained, they were sent out of the way, but this must have been inconvenient, and after being felt so, it is probable that they would not have occupied their lodgings long. The girl that Hare murdered, when Burke was absent in the country, completes the number of sixteen; and this, according to Burke's confession, makes up the whole number. The amount is sufficiently horrifying, and the details abundantly fearful.

The account of the trial, furnishes ample details of the murder of Margery Campbell, or Docherty. It was the last committed, and afforded the means of detecting and putting an end to their wicked career. It is fearful to contemplate to what lengths it might otherwise have gone, or how long it might have continued.

To the notices which have been given, we may subjoin a list of the whole; and although, as we have already premised, we cannot vouch for the order in which they happened being strictly observed, we believe that it will be found otherwise perfectly accurate.

The first subject sold was,
The pensioner who died a natural death.

The murders were,
The old woman from Gilmerton.
The English pedlar.
The old man Joe the miller.
Mary Haldane.
Her daughter.
The old Irishwoman.
Her grandson.
The Cinder Gatherer.
The old woman taken out of the police officer's hands.
Mary Paterson.
The woman from the country.
The girl M'Dougal.
Mrs. Ostler, the washerwoman.
Daft Jamie.
The woman Campbell, or Docherty.
The girl murdered by Hare alone.

Of these, nine were murdered in Hare's house, and two in the cellar adjoining to it, which was used by him as a stable. Four or five of them were effected in what was first Broggan's, and afterwards Burke's house, and one in Constantine Burke's, in Gibb's Close.

We have frequently had occasion to advert to the insinuating manners, and mild deportment of Burke; and the same character attended him in his last place of residence in the West-Port: Though seldom occupied at work, and almost continually drinking, he was still considered a quiet inoffensive man. The frequent squabbles that took place between M'Dougal and he, and the beastly orgies of Hare and his wife, did not change the opinion of their neighbours. His character rather stood out favourably, when contrasted with his associates; and a scuffle in the family of Irish people of his rank, is not such an uncommon occurrence, as to excite much attention. Indeed, so little was this regarded, that the cries of murder, on the night in which Campbell was suffocated, were passed over with this single remark by one of their near neighbours, that "Nelly would surely be murdered to-night, as she was making such a noise;" but without any idea that there was any thing more serious than usual going on.

On ordinary occasions, if he chanced to meet any person in the passage when intoxicated, he would pass on with the observation of, "I am fou to-night; but I will not disturb you."

His fondness for music has been formerly noticed, and this distinguished him to the last. It was his practice to engage some wandering minstrel—a young Savoyard, or Italian boy who plays about the streets on a hurdy-gurdy

most frequently, and with his assistance to get up in his house a concert and dance among the children that could be collected about the neighbourhood; and such was his popularity, that his assemblies were generally well attended. He appears to have displayed considerable affection towards children, and to have secured their good will by joining them in such harmless sports as these dancing parties. Those who were too young to participate in the amusements were propitiated by gifts of sweetmeats, &c.

Many anxious mothers have found out since the trial, that their children were objects of regard to the murderer Burke; and in the plenitude of their parental affection, have congratulated themselves upon their escape from his clutches. Nothing could now convince them that a plot was not laid to kidnap their beloved offspring, and that if he had not been detected, they would ere this time have furnished subjects for dissection. Burke, however, alleges that he never meddled with children, and never intended to do so. There is little room to doubt, however, that had the supply of full-grown and higher priced victims failed, he would not have scrupled much to betake himself to younger ones; we cannot allow any tenderness of feeling to one who could go on butchering so unconcernedly and for such a length of time. He states, indeed, that he would have abandoned it long before, had it not been for the enticements of the monster Hare, who, whenever he proposed stopping short, incited him on by threats and fresh temptations; but although Hare may have been, and, we believe, was the greater delinquent of the two, if any distinction can be made, still Burke must be allowed to have possessed free-agency enough to have withdrawn himself, or even to have arrested the progress of his partner when he pleased, and we fear that this excuse will scarcely serve to palliate his conduct. He was all the time a sharer in the unhal-

lowed gains, and an active co-operator, and seems to have prowled about as ruthlessly in search of miserable wretches to practise upon, as if no feeling of remorse ever entered his mind.

He has even stated, that Hare and he intended taking a journey in the way of their business next spring, they were to proceed westward from Edinburgh, and after visiting the intermediate places, travel on to Glasgow, where they expected to find a rich harvest. They were to proceed thence to Belfast, by way of Greenock, which was also to be attempted on the route, and after doing what they could in the north of Ireland, were to journey on to Dublin. They had little fear about making a successful speculation; and in all probability, with such a fine field before them, they would not have been disappointed.

It is evident from all this that a year's impunity had produced the effect of making them consider themselves as engaged in a species of profession which had indeed, like illicit distillation, or any contraband traffic, to be concealed from the authorities, but which, except for this annoying accompaniment, was pursued with nearly as little compunction as any other profession would have been; and after some practice, they must have found it a lucrative one. The commencement was made in December 1827, about Christmas it is stated, and the woman Docherty was murdered on the 31st October 1828. Their bargain was to receive eight pounds for each subject during the summer season, and ten pounds in the winter. While novices in the profession, in the course of ten months they had massacred sixteen individuals, which must have produced about one hundred and fifty pounds, or seventy-five pounds to each, without counting the price of the first subject; no small sum for persons in their condition.

Their evil-got gains seem, however, to have departed as readily as they came, and all that either of them possessed when arrested, was about two pounds received on the same day as part of the price of the corpse of Campbell. Burke's money was upon his person, and Hare's was hid under the door of his inner closet, where it was got and delivered to him in the jail.

Upon the evening of the day on which the body of Docherty was detected lying among the straw, and before the neighbours were apprised of it, Hare was discovered lurking in the stair leading to Burke's room, about the time when the body was to be conveyed away, and upon being questioned as to who he was, and what induced him to lounge about in that manner, he replied that he was waiting for William Burke. By this time he was recognised, and as he was an universal object of dislike, was desired to go away. Mrs. Connoway adding, "that he would frighten the *lasses* from coming to Mrs. Law's mangle." Some time after he was still found loitering along the passage, and again interrogated about his remaining so long. This time he took an effectual mode of relieving himself from his troublesome inquirers by commencing to retch and vomit. Mrs. Law shut her door violently in his face, exclaiming, "what an ill-bred fellow," and Mrs. Connoway also followed her example. This was apparently the signal they waited for, and immediately afterwards M'Culloch the porter carried out the tea-chest containing the body.

When the alarm was given by Gray and his wife that a dead body had been seen in the house, and that it was now removed, a great sensation was naturally created, and people flocked about the place; none of the suspected individuals, however, could be found, and the police officers, who by

this time had been informed of it, and had visited the house, left the place in search of them, and the tumult in some degree subsided. After a short while, Burke and M'Dougal were heard coming down the stair and along the passage. By this time they must have been aware of the discovery, as M'Dougal had been informed by the Grays of their suspicions, and had made an unsuccessful attempt to tamper with them; yet there was no flurry nor precipitation perceptible in their manner, and, instead of proceeding directly into their apartment, M'Dougal observed, "I have a candle but no light," and entered Connoway's house to procure one, as if there was nothing wrong. Burke leaned unconcernedly against the door-post, without speaking until Connoway said, "We have been speaking about you William;" he then replied, indifferently, "That he hoped they had not been speaking ill of him;" and upon Connoway's answering that "It was not good they had to speak about him," he inquired, "What ill they had to say?". After being informed that it was about a body that had been found, he affected to make light of the affair, under the pretence that it was one of their old stories about lifting the dead. He was then informed that it was not such a surmise now, but that he was suspected of murdering the little old woman with whom they all were so happy the night before, and that the police were after him. He replied with more asperity, "That he defied all the country to prove any thing against him; that he had not been long about these doors, and this was the second time such a story had been raised upon him." Mrs. Connoway remarked, that she had heard of his being a resurrection man, but never had known of any murder being laid to his charge.

He entered into an explanation of his meaning, which

as much as any thing else tends to show the cool designing nature of the man. "Do you recollect the old woman that came from the country?" he said, describing an elderly woman who had been introduced as a country friend of M'Dougal, and had lived with them for three or four days some time before. Mrs. Connoway answered, "That she did." "Then do you recollect," he rejoined, "her coming in to you and shaking hands, and bidding you farewell?" Mrs. Connoway replied, "That she remembered it perfectly well." "I made her come in and do so on purpose," he added, "as Broggan told me that you said I had murdered her." Whether Broggan had actually said so, or whether Burke had devised this blind to screen him when another occasion required it, we cannot say, but Mrs. Connoway had never heard of the circumstance before. The officers immediately after this colloquy entered, and seized the culprits. They were conveyed to the police office, and after examination by the sheriff, were transferred to the Calton Hill Jail, and placed among the untried prisoners. Burke's conduct before trial was decorous, and corresponded with what has been previously said of him. His behaviour during the trial, and immediately after it, has also been described, and little remains to be added, save some short account of his demeanour since conviction.

On the first morning after his removal from the Lock-up-house to the condemned cell, which, in the Calton Jail, is under the women's cells, and adjoining the stair which leads to them, he mentioned to the jailor who attended him, that he had heard a woman lamenting, and inquired if it would be Hare's wife. He was informed that it could not be she, as she was confined in a distant part of the house. He asked, if there were any women in the same quarter,

for he was sure that it was a woman he heard mourning. The jailor then told him that it must have been his own wife, who was kept among the women for protection. "Is the place convenient," he said. The jailor answered, "That it was quite near." "Poor thing," he replied, "she has lost her only earthly provider." On the evening before M'Dougal left Edinburgh, she called at the jail with Constantine Burke, both requesting to see Burke, and upon this being denied them, M'Dougal sent a message, informing him that she wanted money. He sent all that remained of his money, and a common old watch, to her. He has since expressed great affection for her, and a strong desire to see her before he suffers.

Shortly after he came to the jail, it was observed by some one that he would receive absolution from the priest, which would make all right. He answered in a serious tone, "that there was only one absolution for sin, and that it had already been made." Any account of the spiritual conversion of a great criminal has frequently been complained of by many, under the supposition that it has a tendency to encourage sinners to continue in their iniquity, in the hope that a tardy repentance may place them in a state of grace at last. We question much the justice of their conclusions. Men engaged in a career of crime do not reason in this way, nor reason at all upon the subject; and, though they did, it would require great hardihood in a fellow-sinner to endeavour to deprive them of "the hope set before them in the Gospel." Though we certainly do not imagine that these objectors would for a moment contemplate fettering the operation of the Spirit. We, at the same time, hold the opinion, that the utmost caution should be used in promulgating such accounts, and that the state of mind of the individual should be tho-

roughly sifted and rigidly inquired into before a conversion be announced. It is with some pain, therefore, that we have heard it given forth that Burke has become a true penitent. Happy should we have been had we been enabled to proclaim that "the wicked had forsaken his ways, and the unrighteous man his thoughts," and glad should we still be to learn that it was so; but truth compels us to state, that no symptom has hitherto occurred to warrant such a conclusion. We know well that he has expressed contrition for his misdeeds, but we fear that it is rather sorrow for punishment having overtaken him, than a sense of the magnitude of his sin against God; and as for saying that he has sinned, a man who has committed fifteen cold-blooded murders, if he speaks on the subject at all, can scarcely say any thing else. He is said to be perfectly resigned to his fate, and to express himself quite calmly on the subject. We believe it all. He is a man of that stamp that would resolutely bring himself to suffer calmly what he could not avoid. As to his announcing that he would not now accept of pardon though it was offered to him, it appears to us to be a mere fiction. We would not wish to speak irreverently upon such a solemn subject, but surely we may be allowed to say, that conversion to the faith of the Gospel, and to a firm belief in the truths of Christianity, does not and ought not to bring along with it a predilection for being hanged; that while it alone prepares a man for death, it also capacitates him for worthily continuing in life. We fear if Burke has made use of such an expression, it can only be accounted for by wrong-headedness or hypocrisy. He must know well that a pardon is not likely to be granted, and if it were, that his consent would not be asked; and any observations upon the subject may therefore be spared. We repeat that we shall be happy to be assured that we are mistaken in the

view we have taken of his state, but there is much fear that though a melancholy it is a just one.

Since his conviction he has been very strictly watched, lest he should find means to destroy himself, though he has never shown the slightest inclination to do so. A man sits with him night and day, and to those engaged in this duty, as well as others who are necessarily employed about him, he has been very communicative and garrulous.

As illustrative of the freedom with which he converses with those who are about him, we may mention an instance which, were it not for the melancholy and awful situation in which he is placed—standing on the brink of eternity—would bear an irresistibly ludicrous aspect. His mind seemed to have been engaged in a train of reasoning upon some subject, and at last he gave vent to it by saying, that he thought he was entitled to, and ought to get, the five pounds from Dr. Knox, which was still unpaid, on the body of the woman Docherty. It was observed to him, that Dr. Knox had lost by the transaction, as the body was taken from him. He replied, "That was not my business: I delivered the subject, and he ought to have kept it." It was then said to him, that if the money was paid, Hare ought to get half of it. He pondered a little upon this view, and then answered, "No; that Hare had cleared himself by becoming king's evidence, and he thought that he had justly forfeited his share of it, and that all the five pounds should go to him." It turned out that his anxiety for the five pounds proceeded from a desire to appear in a reputable manner on the scaffold. "Since I am to appear before the public," he said, "I should like to be respectable. I have got a tolerable pair of trousers, but have not a coat and waistcoat that I can appear in; and if

I get the five pounds I would buy them." Though it is not likely that he will receive the money, his wish will be gratified in respect to the clothes,—a topic which he has frequently adverted to. We understand that the priest who attends him has provided him with what he desires; and if he had not done so, the Magistrates would have supplied the want.

His disease has now got worse, and gives him great uneasiness. In consequence of the surgeon's request some change has been made on his food, and in addition to the meagre diet formerly hinted at, a little soup has been allowed him daily. This day, (Tuesday) he will receive the sacrament according to the rites of the Romish church. He was removed to the Lock-up-house previous to the awful ceremonial of a public execution, at five o'clock this morning.

Since his condemnation, all intercourse with him has been strictly prohibited, except by those whose duties required their attendance, or the authorities who might wish to see him upon public business; or, finally, those who had, from their situation, the privilege of the *entrée*, and could extend the same privilege to a few of their immediate friends; but, with the exception of their visits, they seem to have been actuated by the laudable desire, that the unhappy man should not be annoyed from motives of curiosity, and the public has been rigidly excluded. Still a sufficient number found their way into his cell, to harass and tease him about confessions; and to be rid of the annoyance, as it is stated, he addressed a letter to the Lord Provost, requesting that a professional gentleman, whom he named, might be allowed access to him, for the purpose of, once for all, giving through him an authenticated confession, which might satisfy the public mind.

The public authorities appear all along to have been actuated by a decided reluctance to disclose to the public any thing connected with these transactions beyond what must necessarily appear on the regular trials; and in doing so, we have no doubt have been anxious to secure to official persons the exclusive knowledge of such circumstances as might be necessary for the ends of justice, as well as, in their opinion, to prevent the public mind being unnecessarily excited.

## TOWN-COUNCIL OF EDINBURGH, WEDNESDAY, JAN. 21.

The Lord Provost stated to the Council, that they were perhaps aware that a written application had been made to him, *signed* by Burke, the individual at present under sentence of death, for permission to be visited by a Writer in town, to whom he was desirous of making some disclosures regarding the crimes with which he had been connected, and that, acting upon the advice of the Lord Advocate, he had deemed it right to refuse the application in question.—That advice had been given by the Lord Advocate in a letter, which, of course, was not written with the view of publication; but as much misrepresentation had gone abroad regarding the matter, the Lord Provost deemed it right that the letter should be laid before the public, that they might know the true grounds on which the request had been refused. His Lordship further stated, that he had waited upon Burke, and explained to him the reason for refusing access to the individual whom he had mentioned in his letter, and by whom that letter was written, though it was certainly signed by Burke—when the unfortunate man mentioned to the Lord Provost, that he was perfectly indifferent as to the matter, and that he did not conceive that the narrative of his life, which the person

already mentioned had wished to prepare for publication, was of a nature calculated to interest any one. The Lord Advocate's letter is of the following tenor :—

"*Edinburgh, January* 15, 1829.

"My Lord Provost—I had the honour to receive your Lordship's letter of yesterday's date, transmitting a communication to you from William Burke, which is herewith returned.

"Your Lordship is perhaps not aware that, on the 3d instant, Burke intimated to the Sheriff, through the Governor of the Jail, that being harassed by inquiries, he wished once for all to make a full confession of every thing he could say in regard to the atrocious transactions in which he had been engaged, to the end that he might afterwards be allowed to remain undisturbed, and apply his mind to things fitted to his situation. In consequence of this communication, the Sheriff, on that same day, repaired to the jail, and took from Burke a full and voluntary confession, which was drawn up in the shape of a declaration, consisting of 19 pages. This declaration is now in my possession, and I sometime ago sent a copy of it to the Secretary of State.

"It appears to me of importance both to the individual himself, and to the public, that no second statement, which might be contradictory of, or inconsistent with, the first, (so solemnly and deliberately given) ought now to be impetrated from this man by irresponsible parties, with the avowed object of its publication; and that the proper answer for your Lordship in return is, that Burke having himself most properly already selected such a mode of making his confession as was best calculated to secure its

accuracy, and to render it truly authentic, no deviation from that mode of proceeding can now be sanctioned ; but that the Sheriff will wait upon Burke, for the purpose of reading over to him the confession made on the 3d current, and that that magistrate will then take down whatever additions or alterations Burke may desire to have made upon it.

" I have the honour, &c.
(Signed) " WM. RAE."
" Right Honourable the Lord Provost
of Edinburgh, &c. &c. &c."

It is difficult, however, to see how " it is of importance to the individual himself, and to the public, that no second statement, which might be contradictory of, or inconsistent with, the first," should be given. To us it seems of great importance, that all he is willing to confess ought to be received and given to the public. So far from his wishing to remain undisturbed, it is at his own request conveyed in a letter, signed with his name, that that permission for the gentleman to visit him was asked ; and his second statement could only be important, in as much as it differed from the one previously given to the Sheriff. It could only be with a view of giving a fuller account, and more minute in its details, that he was desirous of being troubled further in the matter. It is not an impossible supposition, that the declaration the Sheriff received is altogether a tissue of lies ; and is the immaculacy of it still to be upheld, and all correction denied, because it would be contradictory of, or inconsistent with, the former document? Neither does it seem to us, that the avowed object of its publication makes any difference. It is only in as far as this object is concerned that the public cares a straw upon the subject. And if the Sheriff's document is

not intended to be immediately published, but is to be shut up in the archives of his office, until some future Sir Walter Scott grubs it out, and weaves for other generations a romance of thrilling interest out of the horrifying confessions of Burke, the public perhaps would have been as well pleased had all this official activity been spared.

We cannot believe that these very respectable functionaries can feel in common with those who use the silly cant, that the public mind may be contaminated by an account of his crime. The public mind has been, and is strongly excited. Some information the public requires, and will get, and it surely is better to have a correct and authentic statement than garbled and exaggerated reports. Were it a detail of the clever tricks of an ingenious and adroit rogue, there might be some colour for the above opinion; but no one is likely to be so enraptured with Burke's narrative as to engage in such a revolting trade in imitation of him.

But while their Lordships have been deliberating upon this subject, and ultimately resolving that he should not be allowed to give an account to any but themselves, the poor man has been confessing all the time; and it is well known that several have had access to him, whose mouths cannot be stopped, and whose pens have not been idle. We are assured that not one, but several "authentic confessions of Burke" will be made public; and we have reason to know, that a duly authenticated one will appear, whether the Lord Advocate's be published or not. Whatever is interesting, our readers may rely upon receiving.

For the present, with the exception of the following

"confessions" which first appeared in the Caledonian Mercury, and which, we are assured, are perfectly authentic, we will leave the unfortunate man until the last act in the singular drama of his life closes.

## CONFESSIONS OF BURKE.

The information from which the following article is drawn up, we have received from a most respectable quarter, and its perfect correctness in all respects may be confidently relied on. In truth, it is as nearly as possible a strict report, rather than the substance, of what passed at an interview with Burke; in the course of which the unhappy man appears to have opened his mind without reserve, and to have given a distinct and explicit answer to every question which was put to him relative to his connection with the late murders.

After some conversation of a religious nature, in the course of which Burke stated that, while in Ireland, his mind was under the influence of religious impressions, and that he was accustomed to read his catechism and his prayer-book, and to attend to his duties, he was asked, "How comes it, then, that you who, by your own account, were once under the influence of religious impressions, ever formed the idea of such dreadful atrocities, of such cold-blooded, systematic murders, as you admit you have been engaged in—how came such a conception to enter your mind?" To this Burke replied, that he did not exactly know; but that becoming addicted to drink, living in open adultery, and associating continually with the most abandoned characters, he gradually became hardened

He was then asked, how long he had been engaged in this murderous traffic. To which he answered, "From Christmas 1827 till the murder of the woman Docherty in October last." "How many persons have you murdered, or been concerned in murdering, during that time? Were they thirty in all?" "Not so many; not so many, I assure you." "How many?" He answered the question; but the answer was, for a reason perfectly satisfactory, not communicated to us, and reserved for a different quarter.

"Had you any accomplices?" "None but Hare. We always took care, when we were going to commit a murder, that no one else should be present—that no one could swear he saw the deed done. The women might suspect what we were about, but we always put them out of the way when we were going to do it. They never saw us commit any of the murders. One of the murders was done in Broggan's house, while he was out, but before he returned the thing was finished, and the body put into a box. Broggan evidently suspected something, for he appeared much agitated, and entreated us 'to take away that box,' which we accordingly did. But he was not in any way concerned in it.

"You have already told me that you were engaged in these atrocities from Christmas 1827 till the end of October 1828; were you associated with Hare during all that time?" "Yes. We began with selling to Dr. —— the body of a woman* who had died a natural death in Hare's house. We got ten pounds for it. After this we began the mur-

* This is a mistake, it was the body of a man, as will be seen in the previous memoir.

ders, and all the rest of the bodies we sold to him were murdered."

"In what place were these murders generally committed?" "They were mostly committed in Hare's house, which was very convenient for the purpose, as it consisted of a room and a kitchen. Daft Jamie was murdered there. The story told of this murder is incorrect. Hare began the struggle with him, and they fell and rolled together on the floor; then I went to Hare's assistance, and we at length finished him, though with much difficulty. I committed one murder in the country by myself.* It was in last harvest. All the rest were done in conjunction with Hare."

"By what means were these fearful atrocities perpetratted?" "By suffocation. We made the persons drunk, and then suffocated them by holding the nostrils and mouth, and getting on the body. Sometimes I held the mouth and nose, while Hare went upon the body; and sometimes Hare held the mouth and nose, while I placed myself on the body. Hare has perjured himself by what he said at the trial about the murder of Docherty. He did not sit by while I did it, as he says. He was on the body assisting me with all his might, while I held the nostrils and mouth with one hand, choked her under the throat with the other. We sometimes used a pillow, but did not in this case."

"Now, Burke, answer me this question—Were you tutored and instructed, or did you receive hints from any

* This also is a mistake, it was Hare who committed the murder alone, when Burke was in the country.

one as to the mode of committing murder?" "No, except from Hare. We often spoke about it, and we agreed that suffocation was the best way. Hare said so, and I agreed with him. We generally did it by suffocation." [Our informant omitted to interrogate him about the surgical instruments stated to have been found in his house; but this omission will be supplied.]

"Did you receive any encouragement to commit or persevere in committing these atrocities?" "Yes; we were frequently told by Paterson that he would take as many bodies as we could get for him. When we got one, he always told us to get more. There was commonly another person with him of the name of Falconer. They generally pressed us to get more bodies for them."

"To whom were the bodies so murdered sold?" "To Dr. ——. We took the bodies to his rooms in ——— ———, and then went to his house to receive the money for them. Sometimes he paid us himself; sometimes we were paid by his assistants. No questions were ever asked as to the mode in which we had come by the bodies. We had nothing to do but to leave a body at the rooms, and go get the money."

"Did you ever, upon any occasion, sell a body or bodies to any other lecturer in this place?" "Never. We knew no other."

"You have been a resurrectionist (as it is called) I understand?" "No. Neither Hare nor myself ever got a body from a churchyard. All we sold were murdered save the first one, which was that of the woman (man)

who died a natural death in Hare's house. We began with that: our crimes then commenced. The victims we selected were generally elderly persons. They could be more easily disposed of than persons in the vigour of health."

Such are the disclosures which this wretched man has made, under circumstances which can scarcely fail to give them weight with the public. Before a question was put to him concerning the crimes he had been engaged in, he was solemnly reminded of the duty incumbent upon him, situated as he is, to banish from his mind every feeling of animosity towards Hare, on account of the evidence which the latter gave at the trial; he was told, that, as a dying man, covered with guilt, and without hope, except in the infinite mercy of Almighty God, through our blessed Redeemer, the Lord Jesus Christ, he, who stood so much in need of forgiveness, must prepare himself to seek it by forgiving from his heart all who had done him wrong; and he was most emphatically adjured to speak the truth, and nothing but the truth, without any attempt either to palliate his own iniquities, or to implicate Hare more deeply than the facts warranted. Thus admonished, and thus warned, he answered the several interrogatories in the terms above stated; declaring, at the same time, upon the word of a dying man, that every thing he had said was true, and that he had in no respect exaggerated or extenuated any thing, either from a desire to exculpate Hare, or to spare any one else. The unhappy man is, moreover, perfectly penitent, and resigned to his fate. He never deluded himself with any hopes of escape or of mercy; and he is now accordingly preparing himself for confession,

and for receiving absolution, by a perusal of such books as his spiritual guides have put into his hands, and by listening with the most devout attention to their religious instructions. He fully acknowledges the justice of his sentence; nay, he considers it in some measure as a blessing, the certainty of his approaching fate having brought back his mind to a sense of religion, from which it had been long estranged. At first he expressed deep regret that Hare, whose guilt he conceives as of a still deeper dye than his own, should have escaped the vengeance of the law; but by the exertions of his spiritual monitors, who have been indefatigable in their efforts to impress him with a strong sense of the dreadful enormity of his own guilt, as well as to bring him to a right frame and temper of mind, he no longer gives expression to such feelings, and now only breathes a wish to die at peace with all mankind. As often as the subject of the late trial is mentioned, however, he never fails to assert that Hare perjured himself in the account he gave of the murder of the woman; repeating the statement we have already given, that, so far from sitting by, a cool and unconcerned spectator of the crime, Hare actively assisted in the commission of it, and was upon the body of the woman co-operating with himself in his efforts to strangle her.

## PREPARATIONS FOR THE EXECUTION.

We are now drawing near a termination of the earthly career of the wretched man who has lately occupied so large a place in the public mind. At the time that his atrocities were first brought to light, a deep and general

sensation of horror and astonishment was produced. The fresh disclosure of new crimes which were announced from day to day, kept alive this feeling, until at last it was wound up to a pitch of interest which can scarcely be imagined. All classes seemed actuated by a common feeling of indignation against the ruffians who could perpetrate such enormities; while the disappointment of the public, that the vengeance of the law had hitherto overtaken only one of the murderous gang, was strongly expressed. There was manifested, at the same time, great satisfaction that one at least of the miscreants had not also escaped his merited fate; and, as the time appointed for his execution drew near, an universal interest was exhibited to learn the progress of the preparations, and the state of mind of the unhappy man. The magistrates and authorities, however, seem purposely to have adopted a line of conduct calculated directly to disappoint the very natural anxiety so unequivocally exhibited; and up to the moment when he appeared on the scaffold, all knowledge of what was passing was withheld, and all access to the condemned cell or to the Lock-up-house denied; while those, whose duty required that they should be brought in contact with Burke, were repeatedly cautioned against divulging such intelligence as their situation might enable them to obtain. So rigidly was this injunction enforced, that one of the turnkeys in the Calton-hill jail, an individual who was very generally respected in his station, and who, we believe, heretofore conducted himself with much propriety, has, notwithstanding his previous character, been dismissed for revealing some of the secrets of the prison-house.

In despite, however, of all this well-preserved mystery, some particulars of the last hours of the doomed man have

transpired, and we now are enabled to lay before our readers an account, as complete as it can be made, of the awful ceremony which terminated his mortal existence.

## REMOVAL TO THE LOCK-UP-HOUSE.

At four o'clock on the morning of Tuesday the 27th, (the day previous to that appointed for the execution), Burke was taken off the *gad*, and conveyed in a coach from the Calton-hill Jail to the Lock-up-house in Libberton's Wynd. The time was purposely fixed at this unusual hour to prevent any annoyance from the crowd, which would undoubtedly have assembled had it been delayed to a later time of the day. From this cause, the only persons present, and indeed the only individuals acquainted with it, except the coachman, were Captain Rose and one of his assistants. The criminal was strongly ironed, and secured with shackles of unusual magnitude and strength.

He maintained on this trying occasion, both immediately before leaving the jail, and during the time he was in the coach, the same composure of mind which he has displayed ever since his conviction.

On reaching the Lock-up-house, he was supported into it in a state of extreme exhaustion; so much so, as to lead some who witnessed it to imagine that the gallows might still lose its deserved victim, by his death taking place before the next morning.

In the course of the last day of his existence, his composure or insensibility still continued unshaken, excepting

when the dead-clothes, a suit of sables, were presented to him. On receiving them he exhibited deep emotion, and by his own confession he felt it. We have mentioned before that his thoughts had been frequently occupied about the dress he was to appear in. He remained perfectly unmoved, with the exception of this transient indication, throughout the rest of the day. In the course of the day, he was visited by the Rev. Messrs. Reid and Stewart, Catholic priests, and the Rev. Mr. Marshall, whom he requested to attend him to the scaffold, as well as the Rev. Mr. Porteous, which he promised to do. He said to those in attendance that he had committed no more murders than those which were comprised in the declaration he made to the sheriff since his conviction. For two or three nights previously, he had enjoyed sound sleep, and it is extraordinary that such was his state of dogged tranquillity, that his rest was sound and unbroken, for five hours, from Tuesday night to Wednesday morning. This, we believe, has however been observed to be frequently the case with criminals on the evening previous to execution.

At length, he manifested some impatience for the arrival of the time when he was to leave this world. In the course of the night, he said with much apparent earnestness, "Oh that the hour were come which is to separate me from the world!" About half-past five o'clock on Wednesday morning, he expressed a desire to be relieved from his chains, complaining much of the weight of them. This desire was readily complied with. He held out his leg to the smith employed to perform this service, and when the fetters fell from his limbs, he exclaimed, turning up his

eyes towards Heaven, "So may all earthly chains fall from me!"

About half-past six o'clock, the two Catholic clergymen (the Rev. Messrs. Reid and Stewart) entered the Lock-up-house: The former immediately waited upon the criminal in his cell, and was absent for a considerable time with him.

At seven Burke walked with a firm step into the keeper's room, followed by his confessor; and at this moment no appearance of agitation or dismay was discernible in his countenance or manner. He took his seat on an arm chair at the side of the fire, and twice or thrice he was remarked to sigh heavily. There were present at the time Bailies Child, Crichton, and Small, and one or two official persons besides; who were shortly afterwards joined by the Reverend Mr. Marshall and Mr. Porteous, chaplain to the Caltonhill Jail. Before the latter gentleman arrived, however, Burke and his spiritual assistants of the Catholic persuasion had commenced their devotions; he engaged in them with much apparent fervour. The Reverend Messrs. Reid and Stewart followed up their prayers with some serious exhortations. In the course of these devout and pious admonitions, Mr. Reid used the words, "You must trust in the mercy of God;" upon which the unhappy wretch heaved a long, deep-drawn suspiration, or rather suppressed groan, which too plainly betrayed the anguish and despair that lurked about his heart. He seemed to have a secret feeling that he was too deeply sunk in crime to be entitled even to hope in the infinite mercy of Heaven: his mind acknowledged the truth of the observation,

while his guilty and perhaps awakened conscience bade him doubt of that mercy being extended to him.

What is somewhat singular, he exhibited no emotion on the executioner making his appearance. After this portion of his religious exercises had been gone through, he was on his way to an adjoining apartment, when he was accidently met by Williams, who stopped him rather officiously; upon which he said, "I am not ready for you yet." The executioner followed him, and in a very short time both returned, Burke with his arms tightly pinioned behind his back, but without any change in his demeanour. While Williams was discharging this part of his duty, no conversation took place; indeed he rather appeared disinclined to hold conversation with any.

He was then invited to take a glass of wine, which he accepted of, and before putting it to his lips, bowing to the company, he drank "Farewell to all present, and the rest of his friends." He then entered into conversation for a few minutes with Mr. Marshall and Mr. Porteous upon religious subjects. The Magistrates, Bailies Crichton and Small, who had previously gone out, now appeared in their robes, with their rods of office, and Burke took the opportunity, before he went forth to meet his doom, of expressing his gratitude to the Magistrates generally, and particularly to Bailie Small, for the kindness he had experienced from them, as well as from all the public authorities. He likewise made similar acknowledgments to Mr. Rose, the Governor of the Calton-hill Jail, Mr. Fisher, the Deputy-Governor, and Mr. and Mrs. Christie, who have the charge of the Lock-up-house, for their unremitting and kind attentions.

Precisely at eight o'clock, Burke was upon his feet, as if eager to have the ceremony proceeded in, and immediately after the melancholy procession began to move towards the scaffold. He was supported by the two Catholic priests, more from the difficulty of walking, owing to the circumstance of his arms being pinioned than from any inability, or any faltering in his steps. When proceeding up Libberton's Wynd, he seemed perfectly cool and self-possessed, turning from side to side, and conversing with the Rev. Messrs. Reid and Stewart, and the Rev. Mr. Marshall. In crossing from the Lock-up-house to the postern entrance in Libberton's Wynd, to where the pathway was wet from the rain and thaw of the morning, he was observed picking his steps with the greatest care. When he arrived at the head of Libberton's Wynd, his face had an expression of wistfulness and anxiety, as if he were uneasy and uncertain of his reception from the mob, and he hurried on with his eyes half closed, eager apparently to bring the fatal scene to a speedy close.

## OCCURRENCES ON THE STREET.

We will now advert to what was passing in the mean time out of doors. Here fortunately no individual "dressed in a little brief authority" could interfere, to prevent all the circumstances from being transacted under the public eye, or from the press, causing the knowledge of them to be widely extended far beyond even the countless multitudes who thronged and blocked up the High Street.

On Tuesday many anxious spectators were collected

near the ordinary place of execution at the head of Libberton's Wynd, and the thoroughfare was kept up, notwithstanding the inclemency of the weather, during the whole day. The preparations commenced at an early hour in the forenoon. Holes were dug in the pavement for the reception of the upright posts, and a space surrounding the place which it was intended the scaffold should occupy, was enclosed with strong posts and chains, to prevent the crowd breaking in upon the scaffold. At ten o'clock on Tuesday night, the ceremony of setting up the scaffold commenced. Its progress was watched by a great many eager beholders, although the rain still continued at intervals to pelt upon them. The din of the workmen and clanging of the hammers were mingled with the shouts which were raised by the assembled populace, whenever an important piece of the erection was completed, while the torches used, shedding a lurid glare on the black apparatus and dusky countenances of the workmen, added greatly to the wildness and interest of the scene. When all was finished, and the fatal beam placed transversely upon the perpendicular one, and its dark outline visible through the dim light, three tremendous cheers were given. To show the feeling of the working classes, we may mention, that notwithstanding the reluctance that is invariably exhibited among the operatives of the carpenter employed to set up the apparatus for an execution is such, that lots have to be cast for those workmen in the employment who are to fulfil the disagreeable task. On this occasion, one and all volunteered their services, and performed the work with a gusto and alacrity which would have been astonishing in an ordinary case. It was completed about two o'clock in the morning, and shortly after that hour the people dispersed, some few having delayed their departure until they

witnessed the fitting and adjusting of the rope. It was afterwards removed, and replaced shortly before its services were required.

Long before this time the closes and stairs near the spot were blocked up by those who had resolved upon securing a good view, by remaining all night on the ground. The inclemency of the weather drove them to any shelter that could be obtained, and morning found them in the comfortless lairs they had chosen overnight.

A constant bustle was also kept up by the arrival of those individuals, who either from favour or for money, had procured the conveniency of a window in the vicinity. Many gave considerable sums for this accommodation, and such was their desire to avail themselves of their good fortune in securing them, that they spent the night in the apartment.

The streets were nearly perfectly quiet throughout the morning after the erection of the gibbet; the heavy and almost incessant rain must have contributed greatly to prevent any very early assemblage. As the morning advanced, however, groupes were seen hastening to their windows, or taking their station in as favourable a place as they could fix upon for properly witnessing the approaching event.

About five o'clock the people began again to assemble and take their station, principally in front of the gallows, and above it towards the Castle Hill, while large parties of policemen and patrole successively arrived, and were judiciously posted in a strong line in front of the railing which kept off the crowd. The space left free was larger than is usually reserved upon such occasions. The Police

under the conduct of Captain Stewart and his Lieutenants. Their services were not in a solitary instance required, except it might be to prevent the great pressure of the vast multitude from bursting the barrier; indeed the mob were in perfect good humour, and instead of their usual animosity against the police officers being displayed, in futile attempts to annoy or retard them in the execution of their duties, one and all of the immense assemblage would willingly have done any thing in their power to aid the officers and further the arrangements.

From six to seven o'clock a great concourse thronged every avenue to the High Street, and the numbers pouring, almost rushing into it from every quarter, gave the immediate vicinity a very busy and animated appearance. Among the arrivals, there were many whose appearance betokened that they did not belong to the usual class who attend such scenes. In this number were included many well dressed ladies, who by and bye made their appearance at the windows of the lofty and sombre looking lands in the Lawnmarket, as well as those of the county buildings, and gave an unexpected variety to the picturesque scene. We understand that windows commanding a view of the place of execution were eagerly inquired after, and engaged at prices varying according to their locality, from five to thirty shillings each, while some who had engaged a window retailed a view at the rate of half a crown a head. The great numbers who were constantly arriving up before seven o'clock seemed principally to disperse themselves in this manner, as no very sensible addition was made to the mass up to this hour.

About six o'clock the weather had become less inclement, and though it was a cold raw disagreeable morning, the

showers were only partial and less violent than they had been during the night. After seven o'clock, when the rain almost entirely ceased, the crowd became rapidly larger and more dense, and about eight o'clock the area contained between the West Bow and the Tron Church, presented an aspect of such an immense and closely wedged mass of human beings—such a living and moving sea of uncountable multitudes as could very seldom be witnessed, and we should suppose has never been known on a similar occasion, or perhaps on any other in the city, excepting perhaps at the king's visit. All along the street the people were packed more closely than could have been conceived, and as far as the eye could reach, every vantage ground that could command a view was thickly studded. In the immediate neighbourhood of the scaffold, looking downwards, the crowd presented a dark appearance from the great proportion of males who composed it, but few females, much under the number that usually attends on similar scenes were present. Farther out, however, where the pressure was not so great, the usual proportions of the sexes seemed to be more nearly maintained. Some few females were sprinkled even in the most dense parts of the crowd, and their screams and unavailing efforts to extricate themselves, sometimes gave a painful interest to their appearance. We noticed one boy who was with great difficulty preserved from being trampled under foot. Another unlucky youth had by some chance got elevated above the heads of the crowd, and cut a grotesque figure as sprawling on the top of the mass, he was tossed by its movements from side to side; at last he was cast up against the houses and secured a more stable station on a lamp iron. At the movement of any part of the mob, a correspondent and simultaneous motion seemed to be imparted to it in nearly all its parts, and some action

continually happening, imparted an appearance of a vast substance continually waving to and fro.

The numbers collected at this time have been computed at from twenty to thirty thousand individuals; we were disposed at first to consider this calculation excessive, but, upon consideration, we are inclined to believe that the amount has been under rather than overrated. Any idea of counting is quite out of the question, and guessing by the appearance in such a case, is nearly equally fallacious. The only way that tolerable accuracy can be obtained, is by calculating the superficial extent of the space occupied by the crowd.

We believe that we are not far wrong in assuming, that the High Street, from the West Bow to the Tron Church, is about three hundred yards in length, and averages about thirty yards in breadth. This would give for the superficial contents of the area, nine thousand square yards. The people did not quite extend to the Tron Church, but they were higher than the West Bow, and some standing on the Castle Hill; and taking the number in Bank Street, and those pushed out of the line in front of the Advocates' Library, and into closes and stairs, and throwing off one thousand square yards, as an ample compensation for the deficiency about the church, there is still left eight thousand square yards. The mean density cannot be taken at less than four individuals to the square yard,—indeed, from the close packing for a considerable way round the scaffold, we are convinced that this is rather under than over the mark. This computation will give thirty-two thousand persons standing on the streets. We imagine that it is reckoning within the number when we calculate five thousand additional for the crammed windows, and those ad-

venturous individuals who occupied the house tops. In all, we arrive at the enormous number of thirty-seven thousand persons. We do not give this calculation as strictly correct. It cannot under these circumstances be so, but we believe that it is nearer the truth than any guess, and that the whole number approximated more nearly to forty thousand souls than to thirty-five thousand.

This immense multitude presented certainly nothing of the appearance of having come for the purpose of witnessing a sad solemnity, and differed very widely in demeanour from that which is usually exhibited by the spectators of an execution. In ordinary cases, a great degree of sympathy for the sufferer is usually manifested, and even in the worst a respectful and solemn deportment is observed, as if it was recognised that they were met upon a melancholy occasion. In this it was totally different. Every countenance bore an expression of gladness that revenge was so near, and the whole multitude appeared more as if they were waiting to witness some splendid procession or agreeable exhibition. Rude jokes and puns were bandied about, and any opportunity for fun and frolic to while away the time was immediately seized upon. Even the disagreeable and almost suffocating pressure was borne with equanimity, and the glances that were cast at St. Giles' clock rather betokened an impatient desire to glut their vengeance by the spectacle of the arch-fiend's death-struggles, than an anxiety to be released from their uncomfortable situation.

Eight o'clock at last struck solemnly, and commanded universal attention; all eyes were directed towards the scaffold. It now remains for us to describe what took place there, and

## THE EXECUTION.

We left the *cortege* proceeding up Libberton's Wynd, the windows of which were also filled with spectators. When Bailies Crichton and Small, who were foremost in the procession, reached the top of the wynd, and were observed by that part of the crowd who were in a situation to see them, a loud shout was raised, which was speedily joined in by the whole mass of spectators. When the culprit himself appeared ascending the stair towards the platform, the yells of execration were redoubled, and at the moment that he came full in view, they rose to a tremendous pitch, intermixed with maledictions, such as "the murderer! *Burke* him! choke him, hangie!" and other expressions of that sort. The miserable wretch, who looked thinner and more ghastly than at his trial, walked with a steady step to the apparatus of death, supported between his confessors, and accompanied by the Rev. Messrs. Marshall and Porteous, and seemed to be perfectly cool and self-possessed.

When he arrived on the platform of the scaffold, his composure seemed entirely to forsake him, when he heard the appalling shouts and yells of execration with which he was assailed: He cast a look of fierce and even desperate defiance as the reiterated cries were intermingled with maledictions, such as we have already described. His face suddenly assumed a deadly paleness, and his faculties appeared to fail him. Deafening cries of "hang Hare too," "where is Hare?" "hang Knox," were mingled with the denunciations against Burke.

His appearance betrayed considerable feebleness, whether from disease or emotion we cannot say.

He was dressed in the suit of black that we have already noticed, which was rather shabby in appearance. The coat had been made for a man of a much larger size, and from the looseness gave a look of weakness to his person. His appearance was that of a short man, narrow about the shoulder and chest; this proceeded from the dress, as he was really a well formed muscular man. His head was uncovered, and his hair, which was of a light sandy colour approaching nearly to white, along with his dress, gave somewhat of a reverend aspect to him. The resemblance to the portrait which was given in our third number, was universally acknowledged by those who were around us, and we cannot give a better idea of the man at this time to those who did not see him than by referring to it, allowing for the colour of the hair, the cadaverous hue, and some alteration which disease, confinement, and the murderer's fare, had produced. He wore a white neckcloth, and boots which seemed to have lain uncleaned for a length of time in some damp place until they had become mouldy.

It was precisely five minutes after eight o'clock when they ascended the scaffold. Having taken his station in front of the drop, he kneeled with his back towards the spectators, his confessor on his right hand, and the other Catholic clergyman on his left, and appeared to be repeating a form of prayer, dictated to him by one of these reverend persons; the position called forth new shouts and clamours of "stand out of the way," "turn him round." Mr. Marshall, in the meanwhile, offered up a fervent supplication to Heaven in his behalf. The bailies, and other persons on the platform, stood round and joined in the devotions, with the exception of Williams the executioner, and his assistant, who kept their station all the time at the back of the

drop. During the prayer a partial silence was obtained, although there was still considerable confusion and uproar, which Bailie Small in vain endeavoured to repress, by turning repeatedly and waving his hand. Mr. Marshall's prayer occupied exactly five minutes, when he and the others, excepting the Catholic clergyman, retired from around him, Burke and the priests still continuing to kneel. His prayers seemed to be very fervent, and he mentioned to one of the priests, that he died in the full assurance that he would be saved through the mediation of our Saviour.

When he arose from his kneeling posture, he was observed to lift a silk handkerchief on which he had knelt, and carefully put into his pocket. He then cast his eyes upwards towards the gallows; and took his place on the drop, the priest supporting him, though he did not seem to require it from any bodily weakness. There was some hesitation displayed in his manner, as if loath to mount; one of the persons who assisted him to ascend, having rather roughly pushed him to a side, in order to place him exactly on the drop, he looked round at the man with a withering scowl which defies all description. While the executioner, who was behind him, was proceeding with his arrangements some little delay took place, from the circumstance of his attempting to unloose the handkerchief at his breast. Burke, perceiving the mistake, said, "the knot's behind," which were the only words, not devotional, uttered by him on the scaffold, and the only time he spoke to any one excepting the priests.

When the hangman succeeded in removing the neckcloth, he proceeded to fasten the rope round his neck, which he pulled tightly, and after adjusting it, and affixing it to the

EXECUTION of WILLIAM BURKE.

*taken on the spot.*

*Published by Thomas Ireland Jun.r Edinburgh.*

gibbet, put a white cotton night cap upon him, but without pulling it over his face.

While this was going on, the yells, which had been almost uninterrupted, became tremendous, accompanied with cries of "hang Hare too;" "where is Hare." "*Burke* the ———, do not waste rope upon him;" "give him no rope." "You ———, you will see Daft Jamie in a minute." He seemed somewhat unsteady; whether from terror or debility, we cannot say.

The Rev. Mr. Reid then advanced, and conversed with him shortly, but earnestly. It was then, we presume, that he directed him to say the creed, which he did.

His countenance continued to present a death-like paleness, but appeared composed, and he stood unflinching and motionless. When Mr. Reid retired, the executioner advanced, and offered to draw the cap over his face. He manifested some repugnance to its being done; but, with some little difficulty, this part of the fatal preparations was also completed.

When every thing was ready, and the assistants withdrawn, he uttered an ejaculation to his Maker, beseeching mercy, and immediately gave the signal, throwing the handkerchief from him with an impatient jerk, as violently as his pinioned arms would permit, and was instantly launched into eternity.

Before his removal from the jail, he had said that he would make short work on the scaffold; and, though evidently disconcerted, and his ideas scattered by the appalling shouts of the mob, he kept his word. The whole pro-

ceedings on the scaffold occupied only ten minutes, and precisely at a quarter past eight o'clock the drop fell. The fall was very slight, and certainly could not dislocate his neck. It was nearly so imperceptible, that at one instant he seemed standing, and engaged in an active operation; on the next, with almost no change visible, he was hanging helplessly suspended only by the cord that was suffocating him.

Though no sympathy could be felt for such a despicable and cold-blooded monster, it is still a fearful sight to witness death snatching his victim with such circumstance. If any feeling of pity could be aroused by this, it must have been heightened by the terrific huzza raised at the moment he was thrown off, and the populace saw their enemy in the death struggle.

> —— "One universal cry there rushed,
> Louder than the loud ocean—like a crash
> Of echoing thunder."

In all the vast multitude there was not manifested one solitary expression of sympathy. "No one said, God bless him;" but each vied with another in showing their exultation by shouting, clapping of hands, and waving of hats.

This universal cry of satiated vengeance for blood ascending to heaven, rung through the city, and we are assured was distinctly heard by the astonished citizens in its most remote streets. Never perhaps was such a noise of triumph and execration heard, and we may safely say never on a similar occasion. It was followed by a more partial and savage cry of "Off with the cowl;" "let us see his face;" and many appeared desirous of glutting their revenge by gloating on the disgusting spectacle of his distorted features.

The magistrates, clergymen, and executioners immediately upon the drop falling retreated from the scaffold, and left it under the charge only of about half a dozen city-officers, who walked about to keep them from the cold, and looked as if they would willingly have followed the example of their superiors.

There was nothing which could be called struggling observable on the now apparently lifeless body. It seemed as if, slight as was the jerk given by the fall, instantaneous death had been produced, although the neck could not have been dislocated, yet the body swung motionless except from the impetus given by the fall, until about five minutes after the suspension, when a slight convulsive motion of the feet and heaving of the body indicated that vitality was not entirely extinguished. Upon observing this another cheer was raised by the crowd who were anxiously watching the body. It was repeated at intervals as the motions were renewed. This happened we think perhaps twice after the first, each time diminishing in force until the last seemed merely a slight tremulous motion of the feet, imperceptible except to those who were gazing intently upon the body. Notwithstanding that the criminal was now obviously dead, and nothing visible but his wretched carcass hanging at the end of a cord, a disgusting spectacle of the pitch of degradation that guilt and crime can reduce a human being to, the populace showed no disposition to disperse, and comparatively few left the place. They seemed to wait for the purpose of gloating their eyes with the spectacle of the last agonies of this object of their implacable dislike, but after the occurrence of what we have mentioned, there were no indications of sensation, and the very gradual swinging round appeared to be produced by the action of the wind: The head also, as usual, leaned a

little to one side, which added a more miserable character to the scene.

At a particular part of the crowd a cry of "to Surgeons' Square," was now raised by some individuals, and a large body detached themselves from the mass and proceeded in that direction. The signal was not imparted to any other part, and the movement confined to the quarter in which it originated. We are informed that the detachment which thus broke off, though large when it left the Lawnmarket, was gradually diminished by stragglers who dropped off in its progress, until upon reaching its destination it was not able to cope with the party of policemen who were stationed there in anticipation of such an attack. Though they removed from the thickest part of the crowd, their defalcation did not produce a sensible difference in the appearance. At this time a baker had the hardihood to attempt a passage down the street with a board on his head and a few rolls in it, and, contrary to expectation, succeeded in accomplishing it. At one time his board was nearly capsized, but an escort of fellow tradesmen quickly rallied round him, and guarded him safely past the danger. A chimney-sweeper with his ladder was not so fortunate as the baker, as his brethren probably did not muster so strong, and he had to retreat without accomplishing his purpose. With such incidents the mob were amused, while the melancholy spectacle was exhibited before them, and their laughter and glee continued unabated up to their dispersion.

At the time this was passing we observed a person dressed in a drab great coat hallooing and encouraging the mob to persevere in these manifestations of their feelings, from a window on the second floor of a house, a little to the eastward of the scaffold, on the opposite

side. This individual, who seemed anxious to render himself conspicuous by prompting fresh ebullitions of the popular sentiment, persevered indefatigably in his exertions until the body was cut down; but the vengeance of the mob appeared to have been satiated with the death of the criminal, and the shouts, though renewed at intervals, gradually became fainter and fainter.

After hanging a considerable time, some individual from below the scaffold, the under part of which was boxed in for the reception of the body when it should be cut down, gave the body a whirl round, but no motion except what was thus given was observable. From the same place was handed up to the town-officers on the platform shavings and chips taken out of the rude coffin underneath. These were held up to the populace, and some chips thrown over among them;—conduct which did not appear very decorous from the official attendants upon such a solemnity. At five minutes to nine o'clock, Bailies Crichton and Small again came up Libberton's Wynd, still habited in their robes and with their staffs, but did not ascend the scaffold. The executioner mounted it and immediately commenced lowering the body, which was done by degrees and rather leisurely. Again the people made the welkin ring with three hearty cheers when they saw their vengeance completed. A few cries of "Let us have him to tear him in pieces" were heard, but there was no colour for what has been said in a newspaper account, that there appeared indications of a riot to effect this. There was perhaps never a tithe, or a twentieth part of the same number collected in Edinburgh who showed less disposition to disturb the public peace. So far from the bold front of the policemen deterring them from their purpose, the policemen stood all the time with their backs to the crowd, and we believe had not to interfere in a single instance. Had the purpose of the mob been evil, and had they acted simultaneously, no bold

front of the detachment of police, though it was strong, could have prevented them attaining their object: the physical force and pressure of such a mass would have overwhelmed all the officers present. But the crowd were in perfect good humour, and never was there one that thought less of rioting. Their desires were gratified—their aspirations were answered, the arch-criminal had met with his doom, and there was for the present nothing to ruffle their tempers. Accordingly after the body was lowered, the people commenced dispersing quietly, and in an orderly manner, until the streets were perfectly cleared. The body was lowered precisely at five minutes before nine o'clock, having hung exactly forty minutes. Upon its falling into the space under the scaffold, which was boxed in, a scramble took place among the operatives for relics, consisting of pieces of the rope, shavings from the coffin, &c. &c. The body was placed in a shell and almost immediately carried down on men's shoulders to the Lock-up-house.

The populace, upon seeing this winding up of the business, quietly dispersed. All Wednesday, however, large groupes visited the scene.

Instantly after the tragedy was closed, the men who were to remove the scaffold and other erections appeared and commenced operations; such was their celerity that by half past eleven o'clock all traces of it were removed.

We have abstained in the foregoing account of the exit of this notorious criminal, from expressing any opinion upon the very remarkable and unusual display of feeling which was manifested by the immense majority of the spectators present, but have contented ourselves simply with describing these ebullitions along with the other incidents attendant on it, conceiving that to our readers who

did not witness it, they would form part and parcel of the transactions, aye, and a more important part than either some of the actions of the culprit, or the doings of the officials engaged in it. No one who witnessed the unprecedented conduct of the crowd, could have hindered himself from being impressed with it: and assuredly we did not survey it with indifference, nor refrain from forming an opinion. Some of the journals who record such events, appear to have felt very wrathful upon the occasion, and to have lavished every term of vituperation upon those whose conduct ran counter to their fine drawn sentimentality. We confess that we cannot see any reason for indulging in such excessive sensibility. It is not customary certainly to behave so; and this departure from the etiquette of an execution is probably what has shocked them; but then we must recollect that ordinary executions are very different things from what this was, and that in them the expression of feeling and sympathy for the sufferer is genuine and heartfelt; and if those who exhibit it are entitled to any praise for honesty and sincerity in that case, they have not forfeited it in this, as there can be no doubt that the behaviour complained of was an unpremeditated and simple expression of detestation for the crime, and exultation that punishment had overtaken it.

No comparison can be drawn between a man who is executed for some petty theft, whom the frequenters of executions cannot bring themselves to consider as a very desperate felon, and a monster who is most justly hanged for one execrable murder, when there are fifteen behind as abominable. The sentiments and opinions of the mob cannot be the same in the one case, as in the other; they cannot enter into nice legal distinctions—if indeed legal distinctions would blame them; but they see one man suffer for stealing a few shillings, and they pity him, and another for murdering sixteen individuals, and they execrate him.

There is nothing extraordinary in all this, though it is unusual, almost unprecedented, that an opportunity should occur to call it forth. To show any thing else than an implacable aversion to such great moral turpitude, would have been to manifest a slight perception of evil, and we suspect that those who blame the shouters, were themselves actuated by equally honourable feelings, though they would not permit them to operate in the same way.

We will concede to them, that people of very refined feelings and cultivated minds would not triumph over the last moments of the most depraved man who ever lived, and that Burke was that man, perhaps with the exception of Hare, there can be no question; but then we must recollect that those who jostled each other upon the High Street of Edinburgh on the morning of the execution, make no pretensions to such high refinement. We must also bear in mind, that many of the populace were of the same rank in life as the massacred victims, and that they naturally felt more deeply on the subject than those whose station and habits removed them from the risk of being butchered. Also, that a notion had gone abroad among these people that their bodies were mangled for behoof of a science which is to benefit more peculiarly the rich, and that those obnoxious individuals who exercise the inhuman trade of resurrectionists, are screened by them from the punishment they merit. They believed also that there was a desire to deal too leniently towards this ruthless gang, and that although one of them had been sacrificed, others of the delinquents had been snatched from a deserved fate, because their blood was little accounted of. It had been even imagined that a disposition was cherished of saving the life of Burke, and that he was unwillingly consigned to his fate; now all this is very erroneous, and some of it very absurd, but still these opinions were conscientiously held by numbers, and would be as

operative in dictating an expression of their feelings, as more rational ideas could have been.

It is not wonderful, then, that when they witnessed the preparations for the ceremony, they should indulge in expressions of satisfaction; and that when the culprit himself was exhibited before them, an uncontrollable and simultaneous shout of triumphant exultation should burst forth, and that execration for his enormous guilt should have led the vast multitude, without concert or premeditation, to repeat again and again their acclamations.

The law in such cases justly and wisely, but relentlessly, consigns the perpetrators to death, and the public voice also relentlessly adds to it obloquy and reproach. Nay more, the Lord Justice Clerk, before passing sentence, mentioned that he was prevented only by a sense "that the public eye would be offended by so dismal a spectacle," from ordering also, "that to satisfy the violated laws of his country and the voice of public indignation, his body should be exhibited in chains, to bleach in the winds, in order to deter others from the commission of similar offences." His Lordship, so far from having any aversion to posthumous vengeance, adds, "I trust, that if it is ever customary to preserve skeletons, yours will be preserved, in order that posterity may keep in remembrance your atrocious crimes." And he could scarcely have used other terms in animadverting upon what he justly characterized in the following words: "A crime more atrocious, a more cold-blooded, deliberate, and systematic preparation for murder, and the motive so paltry, was really unexampled in the annals of this country." His Lordship's colleagues also expressed themselves in similar terms, and still the people are blamed for acting in unison with their declared sentiments.

Even the hangman seemed to share in the general feeling. His instructions to the porter who assisted him were conveyed in the following petty sentence, "Hold him till I get the rope adjusted, and then let the ——— kick." When fastening the rope about his neck, he did give it an unmerciful tug, so as nearly to strangle him.

It is admitted by those who complain of the violation of decency and good taste, that he was a cold-hearted miscreant, towards whom a spark of sympathy could not be extended, and his atrocities are denounced in eloquent and indignant terms, and yet it appears to have been anticipated that the public, on the only occasion they had of publicly manifesting their sentiments, should have met him with a semblance of pity and forgiveness. They could not have done so without doing violence to every feeling that agitated them, and it would have been an unaccountable piece of hypocrisy to have attempted it. Public detestation unequivocally expressed, is always an important, and sometimes the most important auxiliary of punishment, and the scorn and contumely that is heaped upon a guilty head may be the best ally of the repressors of immorality, and if there was in that assemblage one individual whose sordid soul could contemplate the commission of enormities which might outrage humanity, and bring on him similar manifestations of disgust, it must have acted as a solemn warning when he made the terrible discovery, that "when it goeth well with the righteous the city rejoiceth, and when the wicked perish there is shouting."

Our sentiments concerning the character of the unhappy wretch, and his crimes, has been explicitly stated in the foregoing part of this narrative, but it may not be unacceptable to our readers that a brief view of the opinions of others should be furnished. We subjoin, therefore, the

following observations, the merit of which may well justify their insertion.

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The atrocious murderer, Burke, whose hands were more deeply dyed in innocent blood than those of any other homicide recorded in the calendar of crimes, has undergone the sentence of the law; and from the narrative of the concomitants of the tragedy, it will be seen that the circumstances attending his exit were as extraordinary as his guilt was transcendant and unprecedented. Essentially and in his real character an ignoble, base, mean-spirited wretch, this wholesale assassin, by the mere extinction or obliteration of every moral principle and feeling of his nature, and by a consequent abandonment of the faculties bestowed upon him to the commission of crime, has succeeded in obtaining "a bad pre-eminence," even among those who had prostituted and degraded far higher endowments to the ways of iniquity; and a name which ought never to have been heard of beyond the precincts of the lowest and meanest compartment of society, is now damned to immortal infamy, and stands out in strong relief from the long and black catalogue of those who have most signalised themselves by their daring violation of the laws both of God and of man. In fact, it was reserved for this incredible monster and his associate fiends to reduce murder to a system, and to establish a regular traffic in the bodies of their victims. Ordinary homicides slay from passion or revenge; the murders they commit are the product of an ungovernable and overmastering impulse, which hurls reason from her seat, and, in the wild conflict of guilty passion, precipitates them into the commission of acts which are no sooner done than they would perhaps give the universe were they undone. But Burke and his crew possess the horrid and anomalous distinction of having, without

the palliation of passion, or of any other motive which a just view of human infirmity can admit in extenuation, and from a base and sordid love of gain, and of acquiring the means of rioting in profligacy and iniquity of every sort, established a traffic in blood upon principles of cool calculation, and an utter recklessness of either God or man, which would have done no discredit to Mammon himself. Hence it is, that Burke is perhaps the only criminal who has died, not only without exciting an emotion of pity in a human bosom, but amidst the curses, both loud and deep, of the assembled thousands who witnessed the ignominious termination of his guilty career. The wild shouts of exultation which saluted him upon his appearance on the scaffold, and which rung in his ears with still fiercer acclamations when the world was closing on him for ever, must have appalled even the heart of ice within his worthless bosom, and sounded as the knell of a judgment to come, where the spirits of the slain would rise up before him to demand a just retribution. Yet at that awful moment, when his deeds of blood must have arisen before him, and when the unknown future must have presented itself to his mind as the past was about to close, the wretch seemed almost calm, and looked defiance, nay, scorn at those who, yielding to their overpowering sense of his crimes, blasted his last moments with their shouts of wild triumph and exultation.

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It will be long ere such a scene as this occur again, unless, indeed, as is the devout wish of every one, a similar spectacle be produced by the execution of Hare. There never, perhaps, was such a signal and appalling expression of a whole populace's indignation as on this occasion. The nature of the feeling by which they were actuated, indeed, could only be estimated by looking at the species of crime,

at once so novel and so aggravated, of which the wretch has been convicted. History, even in its blackest record, the *Newgate Calendar*, has disclosed nothing similar or equal in atrocity to the late transactions at the West Port, if we except one or two straggling and doubtful cases, which the progress of inquiry, stimulated by the recent events, has since elicited. The commission of such horrors, and the state of mind and feeling which could bend to their commission, formed, as it were, a new era in the history of human nature and of human crime. A proportionate impression was communicated to the multitude, who literally stood for a season "in pitiless horror fixed." Found guilty of a tissue of enormities, at the very least, of which one would require to be something more or less than human to refrain from shuddering, the execution of this monster was anticipated by thousands without any of those sentiments of commiseration which usually accompany such spectacles. After all was granted that the advocates of science could demand, still the bare *species facti*, and no sophistry could pervert or soften that, was narrowed and nailed down to this, that Burke had done a deed which stands highest in the code of crime, by the laws both of God and man,—that he had done so, not from any of these various motives or temptations which the indulgence of mankind is often apt to admit as palliatives to guilt, but from the basest of all considerations, the procurement of a paltry pittance,—and that he had contracted this heavy villany, not once or twice, or from sudden or casual impulses, but coolly and deliberately had gone about exercising the work of murder as a trade —dealing with human creatures as a butcher deals with cattle—shedding their blood and selling their flesh for bread.

It is impossible, without adverting to all these facts, to form any conception of the popular fury on this occasion. It might be possible to imagine a case in which a criminal, although exhibiting the very highest depravity, might yet be not improperly looked upon with the eye rather of pity than of condemnation,—as one whom nature had given instincts and passions such as she gives alike to man and brute, but for whom subsequent events had done worse than nothing. In fact, such is the strong tendency of mankind to revolt from the idea of such unnatural enormities being committed in aught of human shape, that when the system of traffic which had been practised by Burke and his associates first flashed in a full disclosure on men's understandings, not a few were inclined to search, in some extenuating circumstances of this kind, for a cause of palliation of this unparalleled felon's iniquity. It was at least not an impossible supposition, that the wretched man might have been labouring under a total insensibility of moral and even of intellectual feeling, arising from an entire want of education—from a mind dull and inert in its perceptions originally, and not only in after life allowed to lie waste, but rendered still more callous and impassive every day by a constant contact with scenes of infamy. Could we indeed imagine that Burke had been left to have his character formed under an accumulation of influences fatal and awful to contemplate as these are—that his life had been always spent in profligate habits and profligate haunts—that he had been born with a ferocious and indocile nature, and bred in situations which barred all progressive movements to good—that, in short, he had never had ideas poured into his intellect, or any humane feelings generated in his bosom—then perhaps it might furnish matter of curious investigation to the metaphysicians, whether he was not, after all, a case which called for deep sympathy. But

enough has transpired of the history of this extraordinary man, to show that he at least was placed in no such deplorable predicament. His education and rank in life, instead of having been by any means of the lowest order, were such as, in the judgment of the world, and on the authority of experience, are held of necessity to humanize and inform the mind, and to communicate perfectly just conceptions of moral distinctions. In addition to this, many people hold it to have been made out that Burke was a man of strong mind, of an understanding much superior to his condition. When, therefore, he stood convicted before his country as one who, for his livelihood, had been a wholesale dealer in human slaughter, he stood without the benefit of one single mitigating circumstance, to weaken the profound sense of horror and indignation which pervaded all hearts. He had known the full measure and enormity of the guilt which he was perpetrating, and the whole practical amount of human suffering which he was inflicting day by day on bereaved families and friends; and, appearing in this light, every one felt that it was idle to talk of mercy, and the most charitable were disposed to say, Let the law take its course.

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During the whole of Wednesday the College was beset by numbers anxious to catch a glimpse of the body as it was conveyed to Dr. Monro's Anatomical Theatre. It was resolved, however, that the removal should not take place upon that day, but should be effected in the subsequent night, when there was no probability of a crowd collecting. Still, however, the people continued to stand and gaze at the building in which they believed him to be, as if they expected the inanimate body to appear to them.

Early on Thursday morning the corpse was removed from the Lock-up-house to the College, and placed in one of Dr. Monro's rooms. Several scientific gentlemen attended at an early hour to examine the appearances before the promiscuous entry of the students should prevent their undisturbed examination; among others we noticed Mr. Liston, Mr. George Combe, and his philosophical opponent Sir William Hamilton; Mr. Joseph the eminent sculptor, was also present, and took a bust of the criminal. Sketches were likewise taken by more than one young gentleman.

The body was that of a man you might call stout or sturdy. The neck was one of those that are usually denominated a bull-neck. The chest and the upper part of the arms were extremely muscular. The lower parts were so also, but not in the same proportion. The lower part of his body was thin, but his thighs were extremely large, the leg and foot small. Altogether he exhibited any thing but the appearance of an emaciated body, and every one was astonished to find it display such plumpness and stoutness, differing very materially from the aspect he had upon the scaffold,—but then, as we have already noticed, the size of the clothes making them hang loosely upon him, gave a look of feebleness and narrowness to the chest which it did not possess.

The countenance was not so much altered after death as is usually the case, or as was generally expected. It presented the appearance of great placidity, without the slightest thing which could indicate that he had suffered a violent death, excepting the discoloration of the neck where the cord had surrounded it and made a livid mark; nor was there that fulnes of the features generally attendant on those who have suffered a similar death, owing,

perhaps to his head having been supported in a perpendicular position after being cut down. The countenance betokened the same meanness and low wickedness which it exhibited at the trial.

In the course of the forenoon the body was inspected by a number of individuals, though the public were not admitted generally.

Professor Monro, in pursuance of the sentence of the Court, gave a public dissection of the body at one o'clock to a numerous audience; indeed the class-room was quite crowded. The learned lecturer was received with every mark of respect, accompanied by the usual demonstrations of welcome. We observed among the audience many highly respectable professional gentlemen anxiously waiting to hear Dr. Monro upon the particular subject of the day's lecture, as it was known that it was to be the brain, a portion of the anatomy of the human body on which the professor has bestowed particular attention, and on which, in consequence, his lectures are particularly valued. He has also some new views regarding the brain, the correctness of which we are assured the result of the lecture sufficiently proved. Previously to commencing, the professor did every thing in his power to satisfy the curiosity of those who wished to have a view of the features, by exposing him in the most favourable position. In the dissection he was aided by his able assistant, Mr. M'Kenzie. It was commenced by first taking off the scalp to show the muscles of the upper part of the head; these being removed, the skull was sawn through, and the brain with its covering exposed. The quantity of blood that gushed out was enormous, and by the time the lecture was finished, which was not till three o'clock, the area of the class-room had

the appearance of a butcher's slaughter-house, from its flowing down and being trodden upon.

The anxiety to obtain a sight of the vile carcass of the murderer was exceedingly great, particularly after the dismissal of Dr. Monro's class; and the Doctor, in the most obliging manner, accommodated every one to the utmost extent the apartments would admit of. About half past two o'clock, however, a body of young men, consisting chiefly of students, assembled in the area, and becoming clamorous for admission *en masse*, which of course was quite impracticable, it was found necessary to send for a body of Police to preserve order. But this proceeding had quite an opposite effect from that intended. Indignant at the opposition they met with, conceiving themselves to have a preferable title to admission, and exasperated at the display of force in the interior of the University, where they imagined no such interference was justifiable, the young men made several attempts, in which they had nearly succeeded, to overpower the Police, and broke a good deal of glass in the windows on either side of the entrance to the Anatomical Theatre. The Police were in fact compelled to use their batons, and several hard blows were exchanged on both sides. The Lord Provost was present for some time, but was glad to retire with whole bones, amidst the hootings of the obstreperous youth, who lavished oppobrious epithets on the Magistrates, particularly on Bailie Small, the College Bailie, who displayed considerable activity, and harangued the assemblage from time to time with apparently very little effect. Attempts were made to convey some prisoners the Police had made across the square, but they were speedily rescued on attaining the open space. Those captured afterwards were lodged in one of Dr. Monro's rooms, but this scarce-

ly afforded more secure custody. It was also attempted to clear the yard with but indifferent success; indeed the Police were overmatched, and could only stand their ground by avoiding the open area. The disturbance lasted from half past two till nearly four o'clock, when an end was at once put to it by the good sense of Professor Christison, who announced to the young men that he had arranged for their admission in parties of about fifty at a time, giving his own personal guarantee for their good conduct. This was received with loud cheers, and immediately the riotous disposition they had previously manifested disappeared. We cannot conceive why this expedient was not thought of earlier; for if it had, there would have been no disturbance of any kind. Several of the more violent of the youths were taken into custody by the Police, but were very properly liberated on their parole by the Magistrates. The whole fracas, indeed, was a mere ebullition of boyish impatience, rendered more unruly by their extreme curiosity to obtain a sight of the body of the murderer. Several of the policemen were severely hurt; but *en revanche*, we believe not a few of the young men have still reason to remember the weight of their batons, and some severe contusions were received. South Bridge Street, in front of the College, was kept in a continued uproar, and almost blocked up by the populace who were denied access to the interior, and had the approaches not been guarded fresh accessions of rioters might have given it a more serious aspect. In fact, the body of Police on duty were too weak for the rioters, small parties being sent from the office as they came in from other quarters; a circumstance which rendered it necessary for them to use harsher means than they would otherwise have employed. On Friday, however, matters were better arranged. An order was given to admit the public generally to view the

body of Burke, and of course many thousands availed themselves of the opportunity thus afforded them. Indeed so long as day-light lasted, an unceasing stream of persons continued to flow through the College Square, who, as they arrived, were admitted by one stair to the Anatomical Theatre, passed the table on which lay the body of the murderer, and made their exit by another stair. By these means no inconvenience was felt except what was occasioned by the impatience of the crowd to get forward to the Theatre.

On that day we again paid the College a visit, and formed part of the immense multitude who pressed on anxious to see the remains of the wretch. Having made our way to the stairs leading to the class-room, we moved up without much exertion of our own being required. The progression alone of the dense body which kept continually advancing, almost supplying the place of our usual locomotive powers. After a sufficiency of squeezing, we found ourselves in the room, where we tarried for a while, that we might have sufficient time to make more minute observations than those who were hurriedly carried past in the continuous stream that moved along. The body was lying on the black marble table, which is usually in the class-room, on one side of the area, so as to allow free ingress and egress.

To give a better idea of what the countenance had been, the skull cap which had been sawn off the preceding day was replaced, and the outer skin brought over it, so as to retain it in the proper situation. The face, however, was much altered. We understand that an immense quantity of blood had flowed from the body during the night, producing doubtless the paleness which was now its principal

characteristic. The features had entirely lost that decidedness and sharpness they yesterday possessed. The nose was thickened, as the lips likewise were, producing that bloated appearance usually seen in the faces of those who have died from strangulation. It altogether no longer presented the countenance of Burke.

It was really amusing to observe the different emotions displayed in those approaching and passing the body. They presented as great a variety of faces, both in old and young, as the most zealous physiognomist could have wished for in his studies. Some hesitated at the entrance, half inclined to retrace their steps, as if appalled at their own audacity in venturing so nearly into the presence of a corpse. The crowd behind, however, and their own curiosity urged them on, and they were almost borne past with uncovered head and pallid lip. Others walked boldly forward, viewing the body with a malicious smile, which spoke plainly their disgust at the crimes of the individual, and that this aversion overcame every sentiment of horror they might have felt at another time in looking on a similar spectacle.

The immense concourse of people whose curiosity induced them to visit this sad and humiliating spectacle of fallen and degraded man may be judged of, when it is mentioned, that by actual enumeration it was found that upwards of sixty per minute passed the corpse. This continued from ten o'clock until darkening, and when we left at nearly four o'clock the crowd was increasing, we cannot compute the number at less than twenty-five thousand persons, and counting the other days on which many saw him, though the admissions were not so indiscriminate, the amount cannot be reckoned under thirty thousand souls.

A greater number of males probably than was present at the execution, and a far greater concourse perhaps than ever paid homage to the remains of any great man lying in state.

We understand, though we did not witness it, that some women whose curiosity presented a stronger impulsive motive than could in them be counteracted by the characteristic grace of a female,—modesty, found their way with the mob into the room where the naked body was exposed. It is not likely, however, that their curiosity will, in such a case, again get the better of their discretion, as the males, who reserve to themselves the exclusive right of witnessing such like spectacles, bestowed such tokens of their indignation upon them as will probably deter them from again visiting an exhibition of the sort; seven in all is said to be the number of females in Edinburgh so void of decency; but in justice even to them we may presume that they did not anticipate such an exposure. Several more however cast a longing look into the University, and even ascended the steps, but had the prudence again to retire.

Next day, Saturday, all ingress was denied, and again the front of the College presented a scene of confusion sufficiently annoying to those in the neighbourhood, and to passers by. Long after they had ascertained that no admission was allowed, the people continued gazing at the outer walls, and when their curiosity was abundantly gratified by this, or their patience exhausted, fresh arrivals of unwearied spectators arrived.

The phrenologists have, as a matter of course, seized with avidity this opportunity of, as they imagine, through it exhibiting the advantage of their favourite science, and thereby advancing it in public estimation. We will, out

of the descriptions of the number given forth, confine ourselves to the two following.

## PHRENOLOGICAL DEVELOPMENTS OF BURKE.

For the following measurement of the head of Burke, with the development deduced from it, we are indebted to an ingenious friend who has taken some interest in the science of Phrenology, without, however, becoming a convert to its doctrines. The measurement was taken with the greatest care, in the presence and with the assistance of an able Phrenologist: so that its accuracy may, we believe, be confidently relied upon:—

### Measurement.

| | Inches. |
|---|---|
| Circumference of the head | 22.1 |
| From the occipital spine to lower Individuality | 7.7 |
| From the ear to lower Individuality | 5 |
| From ditto to the centre of Philo-progenitiveness | 4.8 |
| From ditto to Firmness | 5.4 |
| From ditto to Benevolence | 5.7 |
| From ditto to Veneration | 5.5 |
| From ditto to Consciousness | 5 |
| From Destructiveness to Destructiveness | 6.125 |
| From Cautiousness to Cautiousness | 5.3 |
| From Ideality to Ideality | 4.6 |
| From Acquisitiveness to Acquisitiveness | 5.8 |
| From Secretiveness to Secretiveness | 5.7 |
| From Combativeness to Combativeness | 5.5 |

DEVELOPMENT.

Amativeness, very large. Philo-progenitiveness, full. Concentrativeness, deficient. Adhesiveness, full. Combativenes, large. Destructiveness, very large. Constructiveness, moderate. Acquisitiveness, large. Secretiveness, large. Self-esteem, rather large. Love of approbation, rather large. Cautiousness, rather large. Benevolence, large. Veneration, large. Hope, small. Ideality, small. Conscientiousness, rather large. Firmness, large. Individuality, upper, moderate. Do. lower, full. Form, full Size, do. Weight, do. Colour, do. Locality, do. Order, do. Time, deficient. Number, full. Tune, moderate. Language, full. Comparison, full. Casualty, rather large. Wit deficient. Imitation, full.

The above report, it may be necessary to observe, was taken a few hours after the execution. In consequence of the body having been thrown on its back, the integuments not only at the back of the head and neck, but at the posterior lateral parts of the head were at the time extremely congested; for in all cases of death by hanging, the blood remaining uncoagulated, invariably gravitates to those parts which are in the most depending position. Hence, there was a distension in this case over many of the most important organs which gave, for example *Amativeness*, *Combativeness*, *Destructiveness*, *&c.* an appearance of size which never existed during life, and, on the other hand, made many of the moral and intellectual organs seem in contrast relatively less than they would otherwise have appeared. In this state, a cast of the head was taken by Mr. Joseph; but although for Phrenological purposes it may do very well, yet no measurement either from the head

itself in that condition, or a cast taken from it, can afford us any fair criterion of the development of the brain itself. We know that this objection applies to the busts of all the murderers which adorn the chief pillars of the Phrenological system, and in no case is it more obvious than in the present.

Our able Professor, Dr. Monro, gave a demonstration of the brain to a crowded audience on Thursday morning, and we have, from the best authority, been given to understand, that it presented nothing unusual in its appearance. We have heard it asserted, that the lateral lobes were enormously developed, but having made inquiry on this subject, we do not find they were more developed than is usual. As no measurement of the brain itself was taken, all reports on this subject must be unsatisfactory; nor could the evidence of an eye-witness in such a matter prove sufficient to be admitted as proof either in favour of or against Phrenology.

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The question which naturally arises is, whether the above developments correspond with the character of Burke? It is not our intention to enter into any controversy on this subject; yet we cannot help remarking, that it may be interpreted, like all developments of a similar kind, either favourably or unfavourably for Phrenology, as the ingenuity or prejudices of any individual may influence him. We have the moral organs more developed certainly than they ought to have been; but to this it is replied, that Burke, under the benign influence of these better faculties, lived upwards of thirty years, without committing any of those tremendous atrocities which have so paralysed the public mind. He is neither so deficient in Benevolence nor Conscientiousness as he ought to have been, phreno-

logically speaking, and these organs, which modified and gave respectability to his character for as many as thirty years, all of a sudden cease to exercise any influence, and Acquisitiveness and Destructiveness, arising like two arch-fiends on both sides, leave the state of inactivity in which they had reposed for so long a period, and gain a most unaccountable control over the physical powers under which they had reposed for so many years succumbed. But, is the size of the organ of Destructiveness in Burke larger than it is found in the generality of heads?—and are his organs of Benevolence and Conscientiousness less developed than usual?—We hope to have it in our power, at an early period, to adduce sufficient evidence to determine these questions; and in the mean time, leave our readers, who have the inclination and leisure, to amuse themselves, like the astrologers of old, with the above phrenological horoscope of this atrocious criminal.

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It is an old saying that Doctors differ; nor has our recent experience tended, in any degree, to abate our confidence in this maxim. As it is desirable, however, to show both sides of a question at once, we insert the following "Observations on the Head of William Burke," from the pen of a distinguished Phrenologist:—

Public attention has been so strongly attracted by the atrocious crimes of Burke, that the other incidents of his life, and his general character as a man, are liable to be altogether overlooked. In viewing his character, however, with a philosophic eye, the whole mental qualities manifested by him in the different situations in which he was placed, must be taken into account.

Burke was born in the parish of Orrey, county of Tyrone, in Ireland, in the spring of 1792. When at school, he was distinguished as an apt scholar—a cleanly, active, good-looking boy; and though his parents were strict Catholics, he was taken into the service of a Presbyterian clergyman, in whose house he resided for a considerable time. He was recommended by the minister to a gentleman in Straban, in whose employment he remained for several years.

He subsequently tried the trade of a baker, at which he continued only for five months. He thereafter became a linen-weaver, but soon got disgusted with the close application that was essential to earn a livelihood at that poorly-paid, irksome employment, and he enlisted in the Donegal militia. He was selected by an officer as his servant, and we are told that he demeaned himself with fidelity and propriety. While in the army, he married a woman in Ballinha, in the county of Mayo, and after seven years' service, the regiment was disbanded, and he went home to his wife. He shortly afterwards obtained the situation of groom and body-servant to a gentleman in that vicinity, with whom he remained three years.

He subsequently came to work at the Union Canal in Scotland, and there formed an acquaintance with the woman M'Dougal, who became remarkably fond of him, deserted her paternal roof for his society, and attached herself to him, partaking of his various fortunes during the last ten years of his life. It is mentioned that Burke treated her with kindness, and acknowledged her as his wife; and that she was passionately fond of him in return.

Being reduced to much wretchedness and proverty,

Burke and M'Dougal lodged for a few nights in Hare's house, and during his stay, a fellow-lodger died, whose body was sold by Hare and Burke for dissection. At this point, his career of villany commenced. The price of the body being expended, Burke decoyed a woman into Hare's den and murdered her, and sold her body. He and Hare repeated similar tragedies twelve or thirteen times during the course of a year, till at last they were detected.

Nothing can exceed the intense selfishness, cold-blooded cruelty, and calculating villany of these transactions; and if the organs of Selfishness and Destructiveness be not found in Burke, it would be as anomalous as if no organs were found for the better qualities which he had previously displayed.

Phrenology is the only science of mind which contains elements and principles capable of accounting for such a character as that before us; and it does so in a striking manner. We have seen a measurement and development of the head of Burke, taken by an experienced Phrenologist from the living head; also a very accurate cast of the head with the hair shaven, taken by Mr. Joseph after the execution; and we have conversed with a medical gentleman who saw the brain dissected. The head was rather above than below the middle size. The middle lobe of the brain, in which are situated the organs of Destructiveness, Secretiveness and Acqusitiveness, was very large; at Destructiveness, in particular, the skull presented a distinct swell, and the bone was remarkably thin. The cerebellum, or organ of Amativeness, was large, and Burke stated that, in some respects, his ruin was to be attributed to the abuses of this propensity, because it had led him into habits which terminated in his greatest crimes. The organs

of Self-esteem and Firmness were also largely developed. It is mentioned in all the Phrenological works, that Self-Esteem and Acqusitiveness are the grand elements of Selfishess. The anterior lobe, or that in which the intellect is placed, although small in proportion to the middle lobe, was still fairly developed, especially in the lower region, which is connected with the perceptive faculties. In accordance with this fact, Burke displayed acuteness and readiness of understanding. He could read and write with facility, and his conversation was pertinent and ready. The upper part of the forehead, connected with the reflecting organs, was deficient. The organ of Ideality, which gives refinement and elevation, was exceedingly small; that of Wonder, which promps to admiration, is also deficient; and the organ of Wit is small.

Here we find the organs, which, when abused, lead to selfishness, cruelty, cunning, and determination, all large; but we have still to account for the faculties which enabled him to act a better part in life. Accordingly, Combativeness is considerably inferior to Destructiveness in size, and Cautiousness is large. These, acting in combination with great Firmness and Secretiveness, would give him command of temper: and, accordingly, it is mentioned that he was by no means of a quarrelsome disposition, but when once roused into a passion, he became altogether ungovernable; deaf to reason and utterly reckless, he raged like a fury, and to tame him was no easy task; that is to say, when his large Destructiveness was excited to such an extent that it broke through the restraints of his other faculties, his passion was elevated into perfect madness. Farther, looking at the coronal surface of the brain —the seat of the moral sentiments—we find it narrow in the anterior portion, but tolerably well elevated; that is to

say, the organ of Benevolence, although not at all equal in size to the organs of the animal propensities before mentioned, is fairly developed. Veneration and Hope are also full; while Conscientiousness is, in Phrenological language, "rather full," or, in common speech, not remarkably deficient. Love of Approbation also is full. In these faculties, we find the elements of the morality which he manifested in the early part of his life; and also an explanation of the fact, remarked by all who saw him, that he possessed a mildness of aspect and suavity of manner, which seemed in inexplicable contradiction with his cold-blooded ferocity. If there had been no kindness at all in Burke's nature, this expression would have been an effect without a cause.

The organ of Imitation is well developed; and it is mentioned in the Phrenological works that Secretiveness (which in him is likewise large,) in combination with Imitation, produces the power of *acting*, or simulation. It is curious to observe that Burke possessed this talent to a considerable extent. He stated that he was fond of the theatre, and occasionally represented again the acting which he had seen. *He* also, and not Hare, was the *decoyer*, who, by pretended kindness, fawning, and flattery, or by *acting* the *semblance* of a friend, inveigled the victims into the den. This quality enabled him also to *act a part* in his interviews with the various individuals who visited him in jail. He showed considerable tact in adapting himself to the person who addressed him; and from the same cause it was sometimes difficult to discover when he was serious and when only feigning. His great Self-Esteem, Firmness, Cautiousness, and Secretiveness, produced that self-command and unshaken composure which never forsook him during his trial and execution.

One of the most striking tests of the degree in which the moral sentiments are possessed by a criminal, is the impression which his crimes make upon his own conscience when the deeds have been committed. In John Bellingham, who murdered Mr. Percival, the organ of Destructiveness is very large, while that of Benevolence is exceedingly deficient; and Bellingham could never be brought to perceive the cruelty and atrocity of the murder. Burke, in whom Benevolence is better developed, stated, that "for a long time after he had murdered his first victim, he found it utterly impossible to banish for a single hour the recollection of the fatal struggle—the screams of distress and despair—the agonizing groans—and all the realities of the dreadful deed. At night, the bloody tragedy, accompanied by frightful visions of supernatural beings, tormented him in his dreams. For a long time he shuddered at the thought of being alone in the dark, and during the night he kept a light constantly burning by his bedside." Even to the last, he could not entirely overcome the repugnance of his moral nature to murder, but mentioned that he found it necessary to deaden his sensibilities with whisky, leaving only so great a glimmering of sense as to be conscious of what he was doing. He positively asserted that he could not have committed murder when perfectly sober.

Burke was considerably muscular, and in the cast with the hair shaven, taken after death, the measurement of destructiveness is two-eighths of an inch larger than the measurement taken during life, which must be abated in the estimate of the organ.

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We confess that we do not possess enough of science to

enable us either to vindicate or refute the reasoning contained in the above developments. It is understood that a gentleman who has already distinguished himself as an opponent of Phrenology, is to appear again as an impugner of the doctrine given forth in the above description, and questionless he will be replied to by the amateurs of the science. One thing must be apparent in the above account, that while Phrenology is pompously announced as "the only science of mind which contains elements and principles capable of accounting for such a character as that before us," the utmost that is attempted is to give a Phrenological description of the head, and to explain some traits of the character of Burke, and to endeavour to reconcile some discrepancies in the development, which seem not only inconsistent with each other, but which, taken in connection with his character and actions, would appear to any one but a Phrenologist to be positive contradictions.

It does not appear in this instance at least, that Phrenology possesses any peculiar aptitude in accounting for such a character; as the knowledge that a man may commit atrocious crimes and bear a different semblance to the world; that he may be actuated by a powerful motive at one time which gives place to another at a different season, and that again yielding to a third, is a fact that was sufficiently known before the science was promulgated, and would have been as intelligible as Phrenology has made it though we had never heard of the science, and merely telling us that such and such protuberances on the skull denote such and such faculties, does not at all account for the character. Many ignorant people also who cannot "view his character with a philosophic eye," might inform us, that frequently a man does not get desperately wicked all at once, and that there is nothing very uncommon in a person behaving

tolerably well for a length of time, and afterwards abandoning himself to the most profligate courses, neither is it unusual with an ignorant man, when once roused into a passion, to become "altogether ungovernable." We have seen such a thing occur where "large destructiveness" was never exhibited nor suspected.

The learned Phrenologist then goes on to reconcile what has usually been accounted incompatible qualities, his "full Benevolence and large Destructiveness." It is rather too much to assume that the existence of the affection benevolence is sufficiently proved, even for phrenological purposes, by quoting the story that Burke himself told of his horror after committing the first murder. Surely, though this tale was implicitly credited, the mere fact of a murderer's slumbers being haunted with the image of his victim for a brief space, cannot prove the existence of benevolence; but we shrewdly surmise that the whole is a fiction of Burke's, and that he narrated it at a time when the well developed organ of Imitation, combined with his large Secretiveness, was excited to such a degree as to produce *acting* or simulation, and that it furnishes an illustration of "the tact he showed in adapting himself to the person who addressed him." We happen to know that he spoke quite freely about this as well as his other murders; that he went about it in the most cool and heartless manner; that the two monsters not only enticed the poor old woman into the house, and allured her with a show of kindness, but that they actually, in this their first essay, when they were just about to perpetrate it, jested upon the subject. Hare asking Burke "to go *ben* and see how his mother-in-law was this morning," surely then was the time for benevolence to exhibit itself, but we presume that his "large Destructiveness was excited to such an extent, that it broke through the restraints of his other fa-

culties," and forced him to suffocate a helpless and infirm female, without even the miserable palliation of having previously intoxicated himself for the purpose, and on the next opportunity they could discover to perform the same bloody tragedy, without being ever troubled with compunction or remorse, until his organ of Imitation, in combination with Secretiveness, produced the power of *acting, or simulation*, in the condemned cell in the Calton-hill Jail.

We suppose that this *acting or simulation*, of which so much is made by the eminent Phrenologist, means neither more nor less than that he was an accomplished liar, and that faculty seems to have been in full operation when he averred, "that he could never entirely overcome the repugnance of his moral nature to murder, but that he found it necessary to deaden his sensibilities with whisky, leaving only so great a glimmering of sense as to be conscious of what he was doing." "His moral nature" must have been of a very accommodating description, if it could without repugnance allow him to prowl about continually literally seeking whom he might devour, and "by pretended kindness, fawning and flattery, or by acting the semblance of a friend, to inveigle the victims into the den," and when there, to entertain them with a show of kindness and hospitality, and then prompt him "to deaden his sensibilities with whisky" before it could permit him to complete the scene. But perhaps it was his benevolence that induced him to behave in this kind manner until the whisky should excite his destructiveness at the moment that the sacrifice was prepared.

But the truth is that there was neither "ungovernable fury" nor intoxication to excuse or account for his mur-

ders; they were all committed in cold blood, and without one palliating circumstance; and although he might have been drunk when some of them were concluded, he was generally sober during the preparatory process of kidnapping, and instigating them to drink.

He was continually drunk, because from his seldom working he had leisure for drinking, and an abundant supply of money, and with these he would have indulged in the same vice although there had been no reason for "deadening his sensibilities."

The smallness of the organ of Wit is in direct opposition to the notoriety for humour and drollery he had acquired among his acquaintance.

While we allow that Burke was not such a reprobate all his life, as he was towards the close of it, we question whether he ever possessed much of "the elements of morality," even in his youth. An account has been adopted which gives some colour to the opinion that his morality was purer than the actual fact would warrant us to allow. We have already stated in a former number, that he served only one gentleman before entering the militia. This is on his own authority, and we believe also, from the same source, he was never either a baker or a weaver, so far from being three years a groom after his discharge from the Donegal militia, he did not remain one year in Ireland, which the dates will abundantly testify. He first proved unfaithful to his wife, and as we have seen, afterwards deserted her and his children, on discovering that his father-in-law properly appreciated the selfishness and worthlessness of his character, and refused to trust him too far. His living in adultery with the woman

M'Dougal, does not display great attainments in morality, as in like manner, his unfaithfulness even to her, and frequent brutal usage of her, cannot exhibit his benevolence in a very favourable light. It is altogether too much to elevate this unnatural and anomalous monster into a being possessing some of the best and noblest attributes of humanity, merely that the dogmas of a favourite pursuit should be supported. We opine, that the lauders of the immaculate science must content themselves with the fame it has acquired from the developments of former murderers, or alter the whole systems of metaphysics heretofore received, should they not be able to discover a new designation for the bumps they may find on a murderer's cranium.

## PROCEEDINGS AGAINST HARE.

After the trial and conviction of Burke, some very interesting proceedings were instituted by the mother and sister of James Wilson or Daft Jamie, the object of which was to bring him to trial for his participation in the murder of their relative. These proceedings have issued in the liberation of Hare after an argument and determination in the High Court of Justiciary. This question has been regarded by some persons as really of no material importance, because whatever might have been the issue of it, means would have been adopted by the public authorities for obtaining a pardon for Hare if he had been found guilty under the contemplated prosecution. This circumstance does not, in our apprehension, lessen the importance of the question, inasmuch as the conviction and punishment of any single criminal, however atrocious, is a matter of trivial moment when compared with the great

WILLIAM HARE.

as he appeared in the witness box.

taken in Court.

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and constitutional principles of law which constitute the code of our criminal jurisprudence. Viewing these proceedings therefore in this light, there has rarely, if ever, been a question raised in our Courts of Law, involving principles of more paramount interest, as it relates, on the one hand, to the rights and powers of the Public Prosecutor, which are, in other words, the rights and powers of the public; and on the other hand, the rights and privileges of individuals aggrieved by the perpetration of crimes, which affect their property and their feelings. It became a matter of serious concernment to have it clearly and well decided by the highest legal authorities, what are the extent and limits of the Lord Advocate's powers as Public Prosecutor, to enter into compacts with associates in crime, whereby he may afford them an immunity from punishment for participation in crimes, on condition of their affording such evidence as may be requisite for the discovery and punishment of offences, in cases, which from their very nature, can neither be traced out nor established to conviction of the delinquents, without such information and evidence; and how far such compacts may be carried, without infringing the privileges of private parties, who are by law entitled to sue in their own name, and for their own interests, for redress of their individual wrongs? This is the question which has been raised in the present instance, and which has now been solemnly decided by the Supreme Criminal Court of this country.

The proceedings referred to originated in an application for Hare, to the Sheriff of Edinburgh, on the 20th of Jan. 1829. His petition was to the following effect:—

That of this date (November 10, 1828) he was apprehended on a warrant of the Sheriff-Substitute, granted on the application of the Procurator Fiscal of the county, and was committed to the jail of Edinburgh a prisoner, on a

charge of murder: That the petitioner was examined before the Sheriff-Substitute of the county in relation to various acts of murder alleged, or suspected to have been committed by William Burke, then in custody, and other persons: That in the course of these examinations, the petitioner was assured by the Public Prosecutor, that if he made a full disclosure of all he knew relative to the several alleged murders which formed the subject of inquiry, no criminal proceedings would be instituted against the petitioner himself in relation thereto, whatever might be the circumstances of suspicion or apparent participation or guiltiness appearing against him: That the petitioner was examined as a witness, and without the caution and warning which it is the duty of the Judge-examinator to give to a party accused, every time he is brought up for examination; and the petitioner made a full and true disclosure of all he knew, and gave every information he possessed, in relation to all the alleged murders as to which he was examined; and this he did under the assurance of personal and individual safety: That one of the alleged murders, as to which the petitioner was so examined, was that of a person described as James Wilson, commonly known by the name of Daft Jamie; and in relation to that matter, as well as in relation to all the others, the petitioner made a full and true statement, and gave every information he possessed, whether relative to the alleged act of murder itself, or the means of obtaining or tracing any circumstances of evidence in relation thereto; and all this he did, relying on the assurance of personal and individual safety above mentioned, and the compact and transaction thence arising: That, in consequence of the statement and information thus elicited from, and procured through the petitioner, the said William Burke was indicted to stand trial before the High Court of Justiciary in the month of December

last, on a libel setting forth three charges of murder, as to all of which the petitioner had been precognosced as aforesaid: That one of these three charges was the foresaid alleged murder of James Wilson, alias Daft Jamie: That the petitioner was included in the list of witnesses for the prosecution, annexed to the said libel; and he was cited to attend as a witness for the prosecution, in relation to all the charges therein contained. The libel was found relevant to infer the pains of law; and the Public Prosecutor having proceeded to lead evidence against William Burke, and another prisoner, as to one of the charges, (being the murder of Mary Docherty), the petitioner was called in, sworn, and examined as a witness for the prosecution. On that occasion the petitioner stated many things in evidence which he would not have stated, and could not have been required to state, but for the perfect assurance of personal security given him by the Public Prosecutor, not only as to the murder of Mary Docherty, but likewise from any prosecution as to the murders charged in that indictment, and which was laid down and confirmed from the Bench on the said trial. It was then stated from the chair of the Court, as the decided opinion of the whole Bench present, that the petitioner was fully protected by law against either trial or punishment for any of the charges contained in that indictment: That notwithstanding the compact with the Public Prosecutor, under which the petitioner was induced to make disclosures of great importance to the public interest, and to the administration of justice, but which were calculated to involve himself in circumstances of suspicion and hazard, in which he could not otherwise have been involved; and notwithstanding the assurance of personal safety held out to the petitioner from the bench, criminal proceedings have, within these few days, been instituted against the petitioner, at the instance of Janet

Wilson alleged sister, and Janet Wilson alleged mother, of the said James Wilson, *alias* Daft Jamie, but who, the petitioner is informed, and has reason to believe, do not truly possess these characters, and have produced no evidence thereof; and he has been examined before the Sheriff-Substitute as a party accused of that offence, and is now a *close prisoner* in the jail of Edinburgh, committed for further examination as to that charge of murder: That, under the circumstances above detailed, the petitioner is advised that the proceedings thus instituted against him are incompetent, irregular, oppressive, and illegal; and that the warrant on which he is committed at the instance of the said Janet Wilson is illegal, and that he is entitled to immediate liberation: That the petitioner has been informed, that the said Janet Wilson, alleged mother, and Janet Wilson, alleged sister, have applied for and obtained the authority of your Lordship to lead a precognition and examine witnesses as to the petitioner's alleged guiltiness of the said charge. And that an *ex parte* examination of witnesses is actually going on under the authority and force of your Lordship's power and compulsitor, in absence of the petitioner, who is shut up a *close prisoner* as aforesaid. The petitioner has been advised that this proceeding also is incompetent, irregular, and illegal, and highly oppressive and injurious.

The petitioner prayed the Sheriff, *inter alia*, to recal the warrant on which the petitioner is committed, and to ordain him to be set at liberty; also to put a stop to the foresaid precognition or examination of witnesses, and to ordain the same, in so far as it has already proceeded, to be delivered to the clerk of Court.

Upon which the Sheriff pronounced an order for service immediately on Mr. George Monro, solicitor, Supreme Courts, agent for Janet Wilson; and appoints to-morrow,

at two o'clock afternoon, for hearing counsel or agents for the petitioner, and for Janet Wilson in the Sheriff's Office; and, in the mean time, sists farther proceedings in the precognition at the instance of the said Janet Wilson.

The case was accordingly heard by the Sheriff, when Mr. Jeffrey opposed the liberation, and Mr. M'Neill supported the petition. After hearing counsel,

The SHERIFF said, this is a new point. I have always understood the right of the private party to be as great as that of the Public Prosecutor. I do not think the private party is prevented from investigating by any guarantee given by the Public Prosecutor; and therefore refuse the petition for Hare, reserving his right to apply to the Court of Justiciary, for which purpose I shall sist proceedings for two days. The question is new and delicate, but I see no reason for stopping proceedings.

Mr. MILLER then stated that the respondent's agent had got authority from the Lord Provost to examine Burke, but just as he was about to enter the prison, a note was put into his hand by the Governor from the Magistrates, stating that until the judgment of the Sheriff was known, access could not be given. The urgency of the case, and the inapplicability of the objections to his examination were represented, and the Sheriff thought proper to provide for Burke's examination by a note to his interlocutor, which was as follows:

"*Edinburgh, 21st January* 1829.—The Sheriff having resumed the consideration of the petition for William Hare, and having heard counsel for William Hare and the respondents, Janet Wilson, senior and junior: In respect that there is no decision finding that the right of the private party to prosecute, is barred by any guarantee or promise of indemnity given by the Public Prosecutor, Refuses the desire of the petition, but in respect of the no-

velty of the case supersedes further proceedings *in the precognition before the Sheriff*, at the instance of the respondents, till Friday night at seven o'clock, in order that William Hare may have an opportunity of applying to the Court of Justiciary."

"*Note.*—The application which has been made to the Lord Provost for liberty to see Burke, by the private prosecutors, is not before us, but remains to be disposed of by the Lord Provost."

This judgment of the Sheriff was brought under review of the Court of Justiciary by a bill of advocation, and of suspension and liberation for Hare, which came on for discussion before the Court on the 26th of the same month, when

The Lord Justice Clerk said,—After having heard the counsel, I have now to state, that the Court have resolved, before giving their opinions, in the first place to make an order on the Lord Advocate to make any answer to this bill that he may see necessary. The Court desire to decide this question in the gravest manner, after seeing informations; and the counsel will make arrangements for giving them in as speedily as possible.

Informations were then ordered to be lodged on Saturday following.

In obedience to this order of Court, answers for the Lord Advocate, and Informations for Hare and the relatives of Wilson were accordingly lodged; and their Lordships, on the 2d February, proceeded to pronounce judgment on the very nice and important points of law embraced in the discussion.

The Lord Advocate's Answer is as follows:

The Respondent has not failed to observe the guarded terms in which this order is conceived, calling upon him only to give such information as he shall deem proper,

and thus relieving him from the necessity of questioning the power, even of this Court, to require, in this shape, a disclosure of the grounds on which the Public Prosecutor has been guided in the exercise of his official discretion. Influenced, however, by those feelings of respect which the respondent has ever endeavoured to evince towards this High Court, he readily submits the following statement, in deference to their wishes, on so extraordinary a case.

The murder of Mary Docherty took place on the night of Friday the 31st October last; and on the evening of the following day, William Burke, Helen M'Dougal, William Hare, and Margaret Laird, his wife, were taken into custody. On Monday the 3d of November, Burke and M'Dougal were examined before the Sheriff. These persons, as your Lordships have had occasion to know, denied all accession to the crime.

On the 4th of November, William Hare and Margaret Laird were examined by the Sheriff. In the declarations then emitted by them, they both positively denied all accession to the murder, and stated that Docherty had not received any violence from any person in their presence.

Hare and his wife were again examined by the Sheriff on the 10th of November.

They were a *third* time examined on the 19th of November.

At these examinations they firmly persevered in their former denial.

The precognition having been completed, was laid before the respondent, in order to be finally disposed of. A month had now elapsed since the date of the murder; during which period the four prisoners had been kept separately from each other, but no disclosure had been made by any of them, either as to the alleged murder, or as to the participation of any of the persons accused, in offering vio-

lence to the deceased. After repeated and most anxious consideration of this extraordinary case, it appeared to the respondent that the evidence, including the examination of medical gentlemen, was defective, both as to the fact of Docherty having been murdered, and as to who was the perpetrator of the deed. Conceiving it of the greatest importance, for the satisfaction and security of the public, that a conviction should be *ensured*, the respondent did not feel justified in hazarding a trial, on evidence which appeared to him to be thus defective. He well knew, from long experience, how scrupulous a Scottish Jury uniformly is, in finding a verdict of guilty where a capital punishment is to follow; and he deemed it hopeless to look for a conviction, where the fact of a murder having been committed was not put beyond the possibility of question.

The only mode by which the information essentially awanting could be procured, was by admitting some of the accused persons as witnesses against the others. Another consideration of still greater importance rendered this course indispensable.

Some circumstances about this time transpired, which led the respondent to dread, that at least one other case of a similar description had occurred. In such circumstances he felt it to be his imperative duty, not to rest satisfied without having the matter probed to the bottom; and that he should, for the sake of the public interest, have it ascertained what crimes of this revolting description had really been committed—who were concerned in them—whether the whole persons engaged in such transactions had been taken into custody, or if other gangs remained, whose practices might continue to endanger human life. Compared with such knowledge, even a conviction for the murder of Docherty appeared immaterial. But such information could not be obtained by bringing to trial all

the four persons accused. A conviction might lead to their punishment, but it could not secure such a disclosure.

After deliberately weighing all these matters it appeared to the respondent then, as it does to him now, that in the exercise of a sound discretion, and in the performance of his public duty, embracing equally the interest of the community at large, and of the relatives of injured parties, he had no choice left but to follow that course he had adopted.

The only matter for deliberation regarded which of the four should be selected as witnesses.

M'Dougal positively refused to give any information.

The choice, therefore, rested between Hare and Burke; and from the information which the respondent possessed, it appeared to him then, as it does now, that Burke was the principal party, against whom it was the respondent's duty to proceed. Hare was therefore chosen, and his wife was taken because he could not bear evidence against her.

This course having been resolved upon, an overture was made to Hare by the authority of the respondent, with the view to his becoming a witness, and the proposal which was so made to him—(and which did not proceed from him)—was accepted. He was in consequence brought to the Sheriff's office on the 1st of December for examination, when, by the authority of the respondent, he received an assurance from the Procurator Fiscal, that if he would disclose the facts relative to the case of Docherty, and to such other crimes of a similar nature committed by Burke, of which he was cognisant, he should not be brought to trial on account of his accession to any of these crimes.

This assurance had no reference to one case more than

another. It was intended for the purpose of receiving the whole information which Hare could give, in order that the respondent might put Burke, and all others concerned, on trial for all the charges which might be substantiated. In giving it, the respondent acted under the impression, and on the understanding, that when offences are to be brought to light in the course of a criminal investigation carried on at the public instance, such assurance altogether excluded trial at the instance of any private party. In its nature this assurance was thus of an unqualified description, and was calculated to lead the party to believe that the possibility of future trial or punishment was thereby entirely excluded. The assurance was so meant to be understood.

In consequence of this assurance, Hare emitted a declaration, detailing the circumstances connected with the murder of Mary Docherty, and with similar crimes, in which Burke had been engaged. Of these, the murder of James Wilson, and of Mary Paterson or Mitchell, were two; and it was from the facts which Hare so detailed, that evidence was obtained from unexceptionable witnesses, of such a nature as enabled the respondent to bring forward those two murders as substantive acts in the same indictment which charged Burke with the murder of Mary Docherty. By this proceeding, the respondent conceived that he had fully satisfied not only the ends of public justice, but the rights and feelings of all those who were connected with the unfortunate individuals thus referred to.

In the indictment, William Hare and his wife were inserted in the list of witnesses, along with all those persons whose evidence the respondent had been able to obtain in consequence of the disclosures which Hare had made. When the respondent entered the Court on the day of

trial, it was his full intention to examine Hare and his wife as to each of the three murders set forth in the indictment. How he was prevented from so doing the Court is already aware. Had Burke been acquitted of Docherty's murder, the respondent must, in the discharge of his duty, have proceeded to try him on the other two charges; and in proof of both, Hare and his wife must have been examined as witnesses. As it was, they were both adduced on the trial, and it was from the information obtained from Hare, on the assurance of immunity, that the respondent conceives he was enabled to secure a conviction.

The warrant of imprisonment against Hare and his wife, at the public instance, has since been withdrawn, in consequence of its having turned out, after the most anxious inquiry, that no crime could be brought to light in which Hare had been concerned, excepting those to which the disclosures made by him under the above assurance related.

In regard to the crimes so disclosed, whether they were included in the indictment against Burke or not, the respondent having, in the conscientious discharge of his duty, authorised the assurance to be given which has now been stated, apprehends that he is legally barred from prosecuting either of those persons at his instance, and he will not make any such attempt. He need not add that he should strongly feel such a proceeding, upon his part, as dishonourable in itself, unworthy of his office, and highly injurious to the administration of justice.

Having thus, in compliance with the order of your Lordships, given such information to the Court as he has deemed proper, in regard to the situation in which the Public Prosecutor stands, in reference to the murders set forth in the bill of advocation, the respondent has only to

add, that, upon perusing the said bill, he finds no statement in it which requires any answer on his part.

The information put in for Hare states that the question now to be resolved is, Whether the informant (Hare) is protected from farther criminal process in order to punishment, for the murder of James Wilson *alias* Daft Jamie? It then narrates the facts and circumstances which have given rise to the question, and states the legal grounds on which Hare rests his application to the Court for liberation from prison, and at great length proceeds to submit the grounds of his plea, and concludes thus:—

The principles of law, and the direct and recent authority now stated are sufficient, it is submitted, to govern this case.

Even if the principle of law and the authority referred to had been less plain and satisfactory than they are, the informant might, with great confidence, have rested his case on the principles of "humanity, justice, and policy," which are said, on the other side, to be at the foundation of the rule of law which secures protection to a witness *socius criminis*, and which, indeed, pervade, and are interwoven with, every part of the criminal law of Scotland, and may legally be appealed to in the absence of any other guide. Every thing adverse to these principles, and certainly every *novelty* adverse to them, must be repugnant to the spirit of the law. The proceedings which the informant now resists are of this character; while the prayer he has preferred to your Lordships is plainly in unison with those great principles which are at the foundation of our criminal code, and are intermingled with the administration of it. Your Lordships have before you the case of a prisoner who has had the misfortune to be accused by the Public Prosecutor of acts of murder, of which he may have been innocent or guilty. Let it be taken either way. Sup-

pose him to be, as his adversaries describe him, a delinquent polluted by crimes of the blackest die—one of a fraternity who conspired against the lives of the lieges, and who carried on the work of blood with a secrecy and a success which the firmest cannot hear without trembling, or the hardiest without horror—let the prosecutors describe his character and his crimes in any language they please—still, in his case, as in every other, justice must be observed, and the law must be administered in the spirit of humanity, and with a view to future consequences. If he has really been a member of such a conspiracy as is alleged, the greater is the benefit which he has conferred upon the public, by laying open all the hidden acts and secret ramifications of that confederacy, and the greater the danger to which, in the event of trial, he has exposed himself by giving any information or any evidence whatever in regard to any of its transactions and deeds. But he made a compact with the representative of the interests of the public; and he has given to the public, by their representative, the benefit of all his knowledge of these transactions, in consideration of the community having released him from all claim for punishment. This compact having been acted upon—every information which the informant possessed having been drawn from him—he having been publicly called upon to appear as a witness in regard to the very murder now under consideration—he having been placed in the witness box, and having publicly given evidence in relation to a part of those proceedings to which he is said to have been accessary, and having thereby publicly connected himself with the chief actor, whose conviction he ensured; and having exposed the system, and laid open the sources of evidence, and thus furnished the means of bringing himself to trial, if that were competent—borne down with difficulties and surrounded by perils, by which

he would not otherwise have been environed—the strength of his defence impaired or taken away—is it consistent with humanity, or justice, or policy, that two individual members of the community, who all the while lay by without giving notice of such intention, should now come forward, to violate public faith, and to turn the information given for the benefit of the public against the life of him who gave it, in reliance on the compact he had entered into with the Public Prosecutor? Every principle of humanity, of justice, and of policy, is opposed to such a proceeding. There is no precedent—there is no authority for such a proceeding. The informant acted in the belief that he had secured his protection. The Public Prosecutor acted in the belief that he was entitled to secure, and had secured to him, that protection, and had done so for the ultimate benefit of the public, in securing the conviction and punishment of an offender. If both parties erred in their notions of the law, they erred in common with a quorum of your Lordships' number, discharging the most important duty of the Supreme Criminal Court. If the law is now, for the first time, to be declared against that understanding and opinion, let the operation of this new declaration be confined to *future* cases—but let not this new state of things—this alteration of a deliberate judgment of the Supreme Court, operate to the prejudice and injury of the informant, when matters are, in respect to him, no longer entire. To do otherwise would be productive of no good object. The ends of justice would not be thereby promoted. The *public faith would be broken*, and, above all, the informant *could not now have a fair trial.* These considerations give him a sufficient claim to the interposition of your Lordships to prevent further proceedings against him.

The Information given in for the relatives of James Wilson is also of great length. It is there stated—

1. That the right of the private party to prosecute is not controllable by the Public Prosecutor, and is independent of him.

The prosecutors state this as a fundamental and constitutional principle in the criminal jurisprudence of Scotland. It is not an antiquated right, as stated by the counsel for the prisoner, but is recognised by the latest authorities, and is consistent with the most fundamental principles of our practice. There can therefore be no question as to the title of the prosecutors. They state themselves to be "the nearest kinsmen of the deceased, demanding the vengeance of the law on the body of the culprit if he is found to be a murderer."

Legally speaking, there are only two situations in which a prisoner can actually plead indemnity in bar of trial, viz. Previous acquittal by a Jury, or remission by the Crown. These are the two constitutional modes of freeing an accused party from the consequences of alleged crime, and either of them is an effectual bar to trial, whether at the instance of the Public Prosecutor or of the private party. But the point which the prosecutors are anxious to establish is this, that whatever may be the nature of the private arrangement between the Public Prosecutor and the criminal, and whatever may have been his inducement to give up his right of calling upon him to answer at the bar of justice for the crime of which he is guilty, that arrangement cannot deprive the private party of his right to insist for the full pains of law. If the law contemplated the power of the Public Prosecutor to deprive the private party of his right to prosecute, by arrangements to which the latter is no party, it had better declare at once, that the private instance shall be at an end, because it virtually would be so. The assertion of the prosecutors, however is, that their legal right to investigate the circumstances attending the

death of their near relation, and to indict the accused party, if they shall find sufficient ground to do so, cannot be interfered with by the proceedings of the Public Prosecutor, in circumstances over which they have no control. They say, that this doctrine must be held, because it flows as a necessary and irrefragable consequence from the constitutional right of prosecution, which has been proved to exist. If the right be in the private party, how can it be wrested from them, by the communications which pass between the criminal and a third party over whom they have no control, but to whom, on the other hand, the law gives no power of depriving them of that right of demanding justice and vengeance which it has vested in them?

In point of form, indeed, it is required that the Lord Advocate should grant his concourse to a prosecution before the High Court of Justiciary. But this form is established, not for the purpose of showing that his permission to prosecute is necessary, but for the purpose of showing that there is a public injury to be vindicated as well as a private party to be satisfied. Accordingly, the Lord Advocate has no right to refuse his concourse. If he should refuse, he can be compelled to grant it, for this very reason, that it is not *in arbitrio* of him to deprive the private party of his legal right. The law was so stated by Lord Alemore, on the complaint of Sir John Gordon against his Majesty's Advocate, June the 21st 1766, and the same doctrine is laid down by our authorities.—[Here quotations in support of the above doctrine are introduced from Burnet, p. 300; and from Hume, vol. ii. p. 123.]

The Prosecutors pleaded, II. That the *socius criminis* is only protected by the indulgence of the Court with regard to the particular crime as to which he gives evidence.

Formerly a *socius criminis* was not received as an evidence in the criminal Courts of this country, because of the interest which he was supposed to have in establishing the guilt of the individual accused, and thus freeing himself from the imputation of the crime: and the practice which has lately crept in of affording an indemnity to the witness, for the crime as to which he has given evidence, does not appear to have been recognised until subsequent to the case of Jameson in 1770. In the case, accordingly, of Macdonald and Jameson in August 1770, when the objection of a witness having been *socius criminis* was fully debated, the Prosecutor in answer did not say that the witness, by being examined, would thereby be exempted from prosecution, but only that he might hope for impunity; while the usage, at that time, of granting special pardon, to accomplices for enabling them to give evidence, confirms what has been stated. At what period a different rule came to prevail does not appear. Baron Hume conceives that the practice may have commenced from the rule introduced by 21st Geo. II. cap. 25, as to a particular offence.

The doctrine maintained on the part of the prisoner is, that he is relieved, not only from the consequences attaching to his participation in the crime as to which he has been examined, but also as to others, in regard to which the same parties may have been implicated, but which have not been the subject of trial. This argument extends the doctrine of indemnity much farther than it has yet been carried. For the question underwent grave discussion, and the practice, as then followed by Public Prosecutors and recognised by the Bench, is distinctly stated by the Learned Judges in the case of Downie, who was tried for high treason in the year 1794. The discussion arose upon certain questions being put to a witness of the

name of Aitcheson, tending to criminate himself. The danger had been pointed out by the Counsel for the prisoner, to which the course of the examination might lead, as the witness might confess that which was sufficient to convict him of the crime of treason. The doctrine laid down by the whole of these Learned Judges is this, that for what the individual told the Court as a witness, he could not afterwards be questioned; but they distinctly state, that if the witness, after being put into the box, refuses to answer, he would not have been entitled to any protection.

[The information then goes on to narrate the trial of Burke, the circumstances of which are already well known: after which it proceeds to the examination of the suspender, Hare, as a witness on the trial.] After administering the oath to the prisoner, who was brought forward as a witness upon the trial alluded to, Lord Meadowbank stated to him, "Now we observe that you are at present a prisoner in the Tolbooth of Edinburgh, and from what we know, the Court understands that you must have had some concern in the transaction now under investigation. It is therefore my duty to inform you, that whatever share you might have had in that transaction, if you speak the truth, you can never afterwards be questioned in a Court of Law." Lord Justice Clerk—"You will understand, that you are called here as a witness regarding the death of an elderly woman of the name of Campbell or M'Gonegal." "You understand, that it is only with regard to her that you are now to speak?" To this question, the witness replied by asking, "T'ould woman, Sir?" Lord Justice Clerk, "Yes." But what is perhaps of still greater importance, it will appear that he was not permitted to answer questions which might otherwise have been of importance to the individual then upon

trial, upon the ground that he would not be protected upon so doing.

From all which these facts are indisputably established, viz. 1st, That the witness was examined as to no other murder than that of Docherty or Campbell. And 2dly, That he was distinctly warned that he was not bound to answer any question with regard to the other murders contained in the indictment, because as to any other murder except that under investigation, he was not protected by the Court.

The present question therefore stands thus: Hitherto a witness has only been protected from trial for the particular crime as to which he has given evidence. The prisoner has given none as to the crime of which he is now accused, and therefore he has not been placed in that situation which entitles him to the protection of the Court.

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When the Court met on 2d February, the Bill of Advocation for Hare against the nearest of kin of James Wilson was called.

Mr. Jeffrey, addressing the Court, said, their Lordships would not suppose that he had any notion of resuming the argument, but the case was brought to such a point that he might be indulged in making one remark. It was maintained on the part of the suspender, that the Public Prosecutor was entitled to make a compact, to which compact their Lordships were bound to give effect; that their Lordships had no discretion, but that it rested entirely with the Lord Advocate to enter into any compact, and to extend immunity to any number of cases without the control of the Judge; in short, that the Lord Advocate possessed the uncontrolled power of exercising the Royal Pre-

rogative; and this he might do, not merely with respect to the particular crime as to which a *socius criminis* was to be used as a witness, but might extend it to all other crimes of which he may have been guilty. Whenever the Lord Advocate stipulated an immunity, it seemed to be maintained that a sufferer by house-breaking, fire-raising, or other crimes, was to be deprived of his right as a private party to prosecute the guilty perpetrator of the wrong, and that the Lord Advocate had a power to enter into a compact by which he could grant immunity for offences past and future, known or unknown. Such a prerogative would be investing the Public Prosecutor with a power of pardon, which only belonged to the Crown, and this too without a tittle of authority, and totally different from judicial authority, amounting to an assumption of the prerogatives of Parliament.

Mr. M'Neill stated that he had no observations to make.

Lord Gillies expressed his thanks to the Learned Gentlemen who had argued this case. The papers were drawn with much care, and with an ability and promptness which did them the highest honour. His Lordship then alluded to the form in which the case came before the Court, and the prayer of the Bill, and stated the question to be, Whether they were to affirm the judgment of the Sheriff and refuse the prayer of the petition to that Judge for liberation, or to grant it and liberate the prisoner Hare? His Lordship considered the question of law to be an undecided and open question. The facts which gave rise to it were but too well known. They were of the most atrocious character—murders committed, not from the ordinary motive of revenge, or of robbery, or to escape from the punishment of other offences,—but its object was indiscriminate murder for dissection, and cold-

blooded traffic, rendering the crime profitable in proportion to the number of its victims. These atrocities seem to have attracted the notice of the Lord Advocate, whose conduct, in all these proceedings, he considered highly meritorious. We were all much indebted to that high officer for the wisdom and prudence with which he had conducted the business. There can be no doubt that the same feelings and wishes existed in his Lordship's mind as in that of every other man; and his Lordship thought that if he could obtain the punishment of two, or even one of the murderers, a great service would be rendered to the public. The result too fully justified his Lordship's measures. It became necessary to collect evidence of these crimes, and a body of it had been collected—such as could not, perhaps, be obtained in any other part of the world; and what would the consequences have been if such crimes had escaped altogether without punishment? It was for this purpose that he caused the proposition to be made to Hare, which was stated in his Lordship's answer. And Lord Gillies expressed his entire approbation of his Lordship's conduct. The Lord Advocate gave his assurance of pardon. That assurance was properly given. He had a power to promise remission, and Hare was entitled to ask and bargain for it; and no man can look into the case without being satisfied that Hare was entitled to a remission for the important information which he had afforded to the Public Prosecutor. On this very information the indictment against Burke was raised, accusing him of three different acts of murder. Annexed to that indictment Hare's name was in the list of witnesses, and he might have been examined on any one or all of the three charges. The Court pronounced an interlocutor, limiting the trial to one of these—the murder of Docherty. The only information Lord Gillies had as to the trial was

derived from the papers, and these referred to opinions delivered at the trial, on which he could not venture to offer an opinion, as he was not present. But in the information for Hare, there was an explanation which was not satisfactory, of the opinions which were said to be contradictory. Those opinions must have had an effect upon the witness Hare in giving his evidence, and persons in his situation were not to be supposed qualified to judge of the law. The impressions, therefore, made on Hare by those opinions were more important than the abstract law, as they must have regulated him in giving his testimony, in as far as his belief that he was safe was concerned. He would, therefore, without reference to what had passed at the trial, express his own opinion whether or not the Court was entitled and empowered by law to quash the proceedings in consequence of what took place at the examination on the trial? His Lordship held the right of a private party to prosecute for murder undoubted. The information for Hare says it is an antiquated privilege. It was not antiquated. He had himself been counsel in a case from Aberdeen; and there were many cases of trial for forgery at the instance of Banks. In Captain Macdonoch's case from Aberdeen there was no objection hinted at, either by counsel or the bench. It was a sacred right, as much so as if exercised at the instance of the Lord Advocate. There are not many cases of trial for assythment; and none are noticed in the informations. It is due in three contingencies—when remission is before trial—when the accused is tried by a Court Martial—and when he is fugitate or outlawed. His Lordship would not say if in any other case assythment might be found due. What prevents the relatives of the poor lad Wilson from sueing? The same principles apply in this case as if the person murdered had been the highest in the land. Are his

relatives to be controlled by the Public Prosecutor? Though Hare was admitted as witness on the trial for Docherty's murder, and promised an immunity for his participation in it, the Lord Advocate can neither defeat nor control the right of prosecution in Wilson's relatives, nor unless in a case where the witness promised an immunity has been actually examined and borne testimony. If a prosecution at the instance of the Public Prosecutor for murder is followed by death, that is conclusive, and shuts out process at the instance of a private party. If there is a remission, assythment is competent; and if there be an acquittal, there can be no process. There is nothing of this kind in the present case. His Lordship stated that the avowed object was to bring Hare to trial—that the right to do so was clear, and he did not know if the Court had any legal right to prevent it or to defeat it. The practical result was important, as Hare would not suffer death. He reprobated the plea that this case should be decided on principles of humanity, justice, and policy. It was not what judges held to be such principles—but what the law lays down that is to regulate them. The true question is, Whether the Court has power to prevent the trial; and he was satisfied that neither the law nor the constitution authorised it. He went into a view of the history of the law upon the subject of admitting *socii criminis*, and referred to the Act 21, Geo. II. c. 31, as for the first time introducing what was previously unknown in our law. He considered that act as a resting place in the progress of the law upon the subject—and the only satisfactory one—and it was given under limitations. It was afterwards extended, and he was not sure if it was well and wisely done. His Lordship then referred to cases since that time, and, after other illustrations, concluded by

expressing his opinion that the bill should be refused, and the investigations allowed to proceed.

Lord PITMILLY approved of the manner in which the case had been conducted. He did not consider it necessary to take notice of the proceedings at examination on the trial, of which there is no authenticated record. The question was, whether they were to stop proceedings or not —and he could not concur in Lord Gillies's views. As there were two ways to the same object, and as he had the consolation to think that the practical result would be the same as to the individual concerned, he should have been happy if he could have concurred; but there was a principle involved which prevented him from doing so. His Lordship took a view of the practice with regard to *socius criminis* in reference to the Public Prosecutor and to private parties; and stated that the old law of this country excluded them. The law of England admitted them from the first; but more recently our late decisions and practice admitted them in every case. Such a system could only be introduced gradually. His Lordship differed from Lord Gillies in his view of the act Geo. II. c. 34, which introduced a particular rule of law for a special case. It was not a general act, and laid down no general rule, but rather an exception. The 20th section enacted a rule different from that in 31, and the act could not be considered as a resting place in the history of the law as to *socii*. His Lordship then went into a review of the cases applicable to this point, and the principle laid down in the case of Smith and Brodie had now been uniformly acted upon for a period of upwards of forty years. The Lord Advocate's statement was highly satisfactory, and every one must agree in approving of the whole course of his proceedings. His Lordship could not, after procuring all the information which Hare afforded on the faith of the promised immunity,

turn round and proceed against him, because he had not been examined on the two cases not brought to trial. He next considered the right of the private party, and held that if it was competent to proceed against Hare in the case of Wilson, it was equally competent to proceed against him in the case of Docherty, at the instance of private parties; yet it is admitted, that in the case of Docherty the right of the private party is controlled, and must be controlled. After a variety of other illustrations, which we regret our limits will not allow us to repeat, in support of these doctrines, Lord Pitmilly concluded by saying, that the purity and integrity of the law and the faith of the Public Prosecutor, which, for the public good, must not be broken, required that the liberation of the prisoner should be granted, and the proceedings against him stopped. He felt most intensely for the relatives of James Wilson—he sympathised with the public in their feelings of detestation upon the subject of the murders which had led to these discussions—but he felt more for the honour of the country, which was bound to vindicate the faith of a great public officer acting for the public welfare.

Lord MEADOWBANK considered this a very important case as regarded the consistency of the Court, and also as it affects the First Law Officer of the Crown—and if he were under the necessity of refusing to discharge the warrant of commitment against Hare, it would be to him a subject of humiliation and endless regret. His Lordship differed from his brethren, who considered the admissibility of a *socius criminis* as of modern introduction into the law of Scotland. He referred to the authority of Lord Hailes, and the trials of Lord Morton, and the Gowrie conspirators, to show that *socii* were received as witnesses of old, and that remissions had been given for the purpose of obtaining their evidence. His Lordship went into an

eloquent and learned illustration of the antiquities of our criminal law in the days of the Justiciar, and previous to the time that the Lord Advocate was invested with his present power, and maintained that at no period in the law of Scotland has a private prosecutor ever enjoyed the power of sueing a criminal without being subject to control by the Public Prosecutor and the Court; and he held that when the king created the Lord Advocate Public Prosecutor, he also must be held to have invested him with all the powers necessary for explicating the duties of his office. Among these the power of remission of offences for the purpose of obtaining information essential to the public welfare must have been transferred. There never had been a prosecution of a *socius criminis* at any period in the history of the Court when he had obtained the promise of indemnity from the Lord Advocate, and given information and evidence. His Lordship was therefore for quashing the proceedings.

Lord MACKENZIE said, although he had been anticipated in what he had to offer on this subject, he considered it his duty to express his opinion. As to the matter of form, he was of opinion that Hare was competently before the Court—and it was necessary to decide whether he had a sufficient protection by the compact with the Lord Advocate against farther proceedings. He held that the calling of a witness who was a *socius* gives an implied protection, and this he held to be fixed by the cases of Brodie and Smith, followed by all the cases ever since. He considered that Hare had this protection both for the case of Docherty and Wilson. The course of the Lord Advocate had been most wise and expedient; and this wretched man, Hare, had acquired an immunity in all the three cases, in consequence of the promise held out to him. Considering the evidence adduced on the trial of Burke, it was impossible

to contemplate Hare's escape without pain; but he must not die by a perversion of the law, which would shake all confidence in the fair and steady administration of justice. Lord ALLOWAY concurred in the views of Lord Gillies, and expressed his opinion at considerable length. He applauded the Lord Advocate, who had acted in a manner worthy of himself, and of the high office which he held. His conduct had been distinguished for wisdom and firmness, and he had not a doubt that the Lord Advocate was bound to go to the Crown for a remission to Hare. The Crown, he held, was the only source of mercy. His Lordship could not approve of any authorities drawn from the practice of periods in our history which were a disgrace and abomination—and he could not think of resting any of our law on precedents drawn from the trials of Lord Morton and the Gowrie conspirators. He heard that the trial on which Hare was examined was only on the case of Docherty, not of Wilson; and if it was not the case of Wilson, his examination in the other case afforded him no protection. All other cases except Docherty's were excluded, and there was no other before the Jury. The Statute of Geo. II. was *in viridi observantia*. His Lordship was for refusing the Bill.

The LORD JUSTICE CLERK said, that considering this case as one of very great importance, he had prepared his opinion upon it with great care and anxiety, and as he had dictated it, he would now read it without any apology. After some preliminary remarks, that opinion was expressed in the following terms:—"From the statement of the Lord Advocate, it is placed beyond all doubt, that, with a view to the public interest alone, he resorted to the course therein detailed, and considering the atrocious, extraordinary, and unexampled nature of the crimes to which his attention had been called, the infinite importance of avoid-

ing the risk of the escape from punishment of all who *then* appeared implicated in these crimes, and the immense advantage of a public example from a conviction, he did exercise a wise and sound discretion in betaking himself to the evidence of Hare and his wife, and giving the assurance stated in his answers. It moreover appears to me, that the propriety and wisdom of the conduct of the Public Prosecutor in regard to the important and delicate duty he had to perform, have been most fully evinced by the result of the trial and conviction of William Burke. If instead of following the course he did, he had indicted Hare and his wife along with the other prisoners for the murder of Docherty, (the Public Prosecutor having *then*, according to his own statement, no sufficient information regarding the murders of Wilson and Paterson) and had failed to obtain a verdict, against the certainty of which not being the case no one will venture to give an opinion; it may be considered what would then have been the feeling of the public in regard to such a proceeding. Keeping the above circumstances in view, and attending particularly to the nature and structure of the indictment exhibited against Burke and M'Dougal, charging the single crime of murder, in the three specific acts of Mary Paterson, James Wilson, and Mrs. Docherty or Campbell, all alleged to have been perpetrated in the same way and with the same *intent*, viz. for the sale of the bodies for dissection,—in the list of witnesses subjoined to which Hare and his wife were included—the interlocutor of the Court finding the *whole* indictment relevant to infer the pains of law, but upon the motion of the prisoners, allowing the separation of the charges, and the trial then to proceed as to the murder of Docherty alone—the subsequent direction, at the desire of the prisoners, given to Hare, to confine his statement to the case of Docherty—the examination which he then under-

went, both for the prosecution and the prisoners, is to be carefully attended to."

[His Lordship then took a most comprehensive and detailed view of the law applicable to the case, which our limits will not permit us to give at length, but the conclusion of it is so important that we must give it to the public, as it affords explanations, which it is desirable that every individual should be acquainted with in a case that has excited so deep an interest.]

"If then, the prisoner Hare is legally exempted from all prosecution at the instance of the Public Prosecutor for any accession he may have had to the three acts of murder charged in the indictment against Burke and M'Dougal, there seems no ground in law for maintaining that he may still be prosecuted at the instance of the relations of either of the three parties alleged to have been murdered. As to the *speciality* attempted to be founded on as to his not having been examined with regard to the actual murder of James Wilson, it has already been sufficiently adverted to, in reference to the supposition of the Lord Advocate attempting to prosecute for that offence. The nature of the indictment—the interlocutor finding the whole charges relevant—and the almost identity of the modes of slaughter and intent with which the three acts were perpetrated, and the general nature of Hare's evidence—have already been pointed out as demonstrating that without a total departure from the fairness and justness that must ever characterize judicial procedure, it is impossible to deny that Hare did mix himself up with matter that had the closest affinity to the other acts, the trial of which did not proceed at the time. It is farther to be recollected that, in the list of witnesses, there stand included various persons connected with the death of Wilson, the discovery of whom, we have the assurance of the Public Prosecutor, was made through

the information of Hare alone, who did also make such disclosures as led to the framing of that and the other charge in the indictment. It is utterly impossible, therefore, to view Hare as a person who had not spoken out or given *any evidence*, relative to the crime for which he is now attempted to be tried. He can by no possibility be replaced in the situation in which he formerly stood. *Things are no longer entire with regard to him*, as has been justly said. The public has derived the benefit that was expected from his evidence, by the conviction and execution of this guilty associate; and *the public faith that was pledged to him in the face of the country*, and confirmed by the intervention of the authority of this Court *must be preserved inviolate.* Such is the deliberate opinion that I have formed, after the most careful and anxious consideration of all that has been urged, both in speaking and in writing, upon this important question, and a careful review of the authorities that appeared to bear upon it. *The same opinion I formerly delivered in a most important stage of the trial of Burke and M'Dougal, with the concurrence of my brothers who were then sitting with me.* I am free however to admit, that notwithstanding this circumstance, it was my bounden duty to re-consider that opinion with all due attention to the able and elaborate argument that was offered against it by the respondents' counsel. I cannot, however, agree with them that the opinion to which they objected, and were well entitled to object, was one of an *obiter*, or passing nature, and not to be considered of importance at this stage of the trial when it was pronounced. It was, on the contrary, delivered to the Jury, as the opinion of the Court, upon an objection urged in point of law, in the most earnest manner by the counsel for the prisoners, and which, if well-founded, must have gone to the destruction of the credit of the accom-

plices who had given evidence. There can be no part of the duty of the Judge who presides at a criminal trial more sacred than that of expounding the law to a Jury, in reference to such an objection; and it is necessary, therefore, that the opinion of the Court should be given in the most unequivocal terms. It was accordingly given to the purport and effect that is stated in the printed trial. As no man can say what effect that statement of the law had upon the minds of the Jury,—as it may in fact have led them to give such credit to Hare and his wife, as actually brought about their verdict against Burke, and consequently that his fate had been decided by it, I have no hesitation in declaring, that if I had, upon reflection, been convinced that I had committed an error, and delivered an erroneous opinion in law to the Jury, I should have felt it to be my bounden duty, without the least regard to popular feeling or clamour, to have made such a representation to the Secretary of State, as might have led to an alteration of the sentence of the law upon Burke. The opinion, however, which I did deliver, in my charge to the Jury, so far from being shaken, has been strengthened and confirmed by all that I have since heard or read upon the subject. I shall only add, that if the objection to the credit of the accomplices, upon the ground of their being actually liable to be tried for the two acts of murder contained in the indictment, the trial of which had that day merely been postponed, had been taken, as it ought to have been, when Hare and his wife were offered as witnesses, the point would have been fully argued, and solemnly determined by the Court. But as it was withheld till the addresses to the Jury, every one knows that it could no otherwise have been disposed of than by delivering an opinion upon it to the Jury. I have but one word more to add with regard to the supposed inconsistency between the

opinions expressed by myself and my brothers, in regard to a question proposed to be put to Hare, and that which I delivered to the Jury. I must beg leave, however, to say, that when the real *res gestae* are attended to, no such inconsistency can be found. I find from my notes, that the argument of the counsel "was raised upon the question, *if Hare ever was concerned in the commission of other murders?*" Upon the competency of that question, the opinions of the Court were delivered, and those opinions must necessarily be viewed as having reference to the question actually proposed, and the injunction which the pannels' own counsel had themselves desired should be given to Hare, to confine himself to the case of Docherty. And I well recollect of putting it to the counsel, that the witness must be fairly dealt with, and of having stated, that if asked in regard to the cases of Wilson and Paterson, his whole statement must be given, whatever the consequences might be. When the examination was resumed, I do not find that *the question is put in the precise terms on which it had been argued;* and it was only at a later period that Hare was asked, *if there was a murder committed in his house in October last?* but as to which the opinion of the Court was not delivered. Whatever shade of difference may therefore appear in the opinions regarding these questions, and that which was advisedly delivered in the charge to the Jury, and I am by no means surprised it has so struck some of your Lordships, must fairly be ascribed, either to the imperfections of the report of the trial, or to the course of proceeding that was adopted at the suggestion of the counsel for the prisoners. I am, upon the whole, of opinion, that the prayer of the prisoner's bill ought to be granted, and that it would be directly contrary to the established practice of this Court, and the principles of our law, merely to suspend the proceedings against him,

in order that a pardon should be obtained for his concern in the offences charged in the indictment, upon which he was examined as a witness. Such would be the course adopted by the judges of England; but, respecting as I do, that law and its institutions, I do not, as a Scottish judge, feel myself warranted to follow it on the present occasion. My opinion is, that it would be equally incompetent to the first officer of the crown, as it is to the private parties now before us, to institute any criminal procedure against Hare, steeped in guilt although he be, in reference to the acts contained in the indictment against Burke, and I can allow that opinion in no degree to be influenced, *civium ardore prava jubentium.*"

An interlocutor was then pronounced, passing the bill of advocation, (thereby reversing the decision of the Sheriff), ordaining the Magistrates and keepers of the jail of Edinburgh to liberate the prisoner Hare from confinement, quashing the proceedings which had been instituted with a view to bring Hare to trial at the instance of James Wilson's nearest of kin, and ordaining the precognitions already taken for that purpose to be cancelled.

Thus, in as far as Hare is concerned, these prosecutions connected with the late murders are closed; and whatever may be the opinions entertained out of doors with respect to the conflicting views of the Judges upon the law of the case, it must be satisfactory to the country to find, that although differing materially on many points in the discussion, the Court were unanimous in approving most warmly and decidedly of the Lord Advocate's proceedings. And, however deeply every virtuous man may lament that a wretch, who is so covered over with crimes, should escape the hands of justice, this feeling ought to be controlled by the recollection that even the guilty must not suffer by

stretches of the law, which might also be perverted in other cases, to the ruin of the innocent—that, without the information which Hare has afforded, not even one of the horrid crew of murderers would have been convicted, or the means afforded of checking a hideous system of murder—and that, by the course which the Public Prosecutor has pursued, in giving one man immunity from punishment for such information, a great benefit has been conferred upon society, for which his Lordship is entitled to the gratitude of his country. As to Hare himself, he is morally, and in the eyes of all mankind, a self-convicted murderer. He is liberated for the present from the jail and the gibbet—but he goes forth an outcast on the world, with a brand on his forehead, that can never be effaced. Wherever his name is heard by him, he will hear it amidst the execrations of mankind. His doom hereafter it is not for man to anticipate.

The delivery of their Lordships' opinions in this interesting case occupied the Court upwards of seven hours. The Court-room was crowded during the whole time.

In the former part of this account, we announced that some particulars of the lives of each of the prominent actors in the black dramas should be given. The press of matter that has since occurred, has hitherto prevented this, but we now proceed to redeem our pledge, in so far as one of them is concerned, by briefly mentioning such things as have come to our knowledge respecting the notorious

## WILLIAM HARE.

This villain's character apparently has presented few traits which could interest any one previous to his great crimes. It may be judged of by picturing the *beau ideal*

of a drunken, ferocious, and stupid profligate. What few incidents have occurred in his miserable life, if such there were, would also have been lost, by the insuperable aversion every one previously acquainted with him seems to have in avowing even a casual connection. While the acquaintance of Burke has been claimed by many, and his habits and manners freely dwelt upon, all have shrunk from an avowal of such an intimacy with his fellow monster, as would justify them in depicting his character. After it was discovered that Burke had, before his crimes, displayed some of the attributes of humanity, and had borne a very different character from what his real one turned out to be, it was assumed, that he had been made a tool of by Hare, and that he was the tempter and arch-fiend who had lured him on to his destruction, and instructed him in the hellish arts; and Burke's language favoured the idea. But Hare has since exhibited, along with his hardened indifference and callousness, such a mental apathy, such gross and unconceivable stolidity in his conduct and estimation of his crimes, as to force us to the conclusion, that, however inclined he might be to reach the climax of atrocity, he was not capable of leading or directing any one, far less Burke, or initiating him in the barbarous trade.

In corroboration of this we may mention, that a celebrated literary professor of our University, it is understood, visited both of the murderers when in jail, and gave, as his opinion, that in comparison with Burke, Hare was a perfect fool, and that he was convinced that he could never be his instructor.

He describes Burke to have been a very intelligent man, and one whose conversation would give a great idea of candour and open-heartedness, though his conduct displayed nothing like remorse or contrition. On the contrary, he seemed happy that the Professor's knowledge of

Innerleithen enabled him to talk of the kindness and charity towards him of several individuals there. He talked of them so as to lead the learned gentleman to remark, that "he understood perfectly well what charity was though he did not practise it." Hare's behaviour and conversation were perfectly different. He seemed not to possess the slightest moral perception of the enormity of his conduct, and described his guilty compeer as one of the best men in the world, who would part any thing he had in the world with a beggar. His aspect did not belie him; well might Mr. Cockburn describe him as a "squalid wretch;" we scarcely ever saw a more disgusting specimen of human nature, and both in his physical and moral conformation the brute seemed to vie with the man for the ascendency. A continual idiotic though diabolical laugh appeared to be upon his countenance, such as might be imagined to characterize the lowest grade of fiends.

He is a native of Ireland, and was born in the neighbourhood of Londonderry, and after working at country work there he came to Scotland and engaged as a common labourer upon the Union Canal, and for some time assisted in unloading Mr. Dawson's coal-boats. There he fell in with Log the former husband of his notorious wife, and subsequently came to lodge in his house. After the work at the canal was finished he took up the trade of a travelling huxter, and with an old horse and cart went about the country selling fish, and sometimes crockery ware, which he gave in exchange for old iron, &c. and sold it again to the dealers in Edinburgh. He used also to go about with a *hurley* selling articles. Before Log's death he had left his house in Tanner's Close, but returned again after this event, and assumed the privileges of the master of the house, although Mrs. Log never was called by his name. He then became a perfect pest to the inhabitants of the West Port, from his debauched dissolute habits and reckless brutality.

His conduct would justify the oft-repeated allegation of an Irishman's addiction to fighting, as he was continually in a brawl. He never failed to pick a quarrel upon any opportunity that offered, and an individual looking at him was sufficient apology for a challenge to the combat. Though a sorry pugilist, he was never tired until fairly disabled; and the many drubbings he received, could not cure him of his pugnacious propensities. If no adversary presented himself out of doors, he was always sure of one within, and his wife and he were perpetually engaged in conflicts. Though almost always intoxicated herself, his drunkenness incited frequent attacks from her. Any of the neighbours would desire a boy "to go and tell *Lucky Log* that *Willie Hare* was on the street drunk," and a fight immediately ensued upon their rencontre.

In our account of the murders, we have already noticed the share that he had in them, as well as his conduct upon the trial and immediately subsequent to it, and it is unnecessary to repeat it here; we will confine ourselves therefore, to some farther notice of his deportment while in jail, and his adventures after liberation. At first, after Burke's conviction, he imagined that his detention was for the purpose of protecting him, and was very easy and not at all troubled with compunction; but after his confinement was extended to a period far beyond what was necessary for immediate protection, he began to become uneasy, which was increased when inquiries about the murders were renewed. His behaviour indicated most unbecoming levity, as well as imbecility. He apparently was incapable of comprehending any thing of moral rectitude.

On the last Sabbath of Burke's life, and when his own case was pending in the courts, he is said to have displayed the only symptoms of feeling that he had suffered to escape him. It was during the discourse of the Rev. Mr.

Porteous, which, contrary to his usual custom, he listened attentively to, and appeared affected when pointed allusion was made to his compeer.

On the 2d February, and probably within half an hour of the time when the wretch would have been liberated, in consequence of the judgment of the High Court of Justiciary, on his bill of advocation, suspension, and liberation, a detainer was lodged against him at the instance of the mother and sister of Daft Jamie, proceeding upon a petition setting forth that the petitioners had a claim of assythment against Hare on account of the murder of their near relative; that the sum of five hundred pounds, or such other sum as might be modified, was due to them by Hare on that head, and that, as the said William Hare, a foreigner, was *in meditatione fugae*, and about to withdraw himself forth of the kingdom with a view to disappoint their just claim; wherefore a warrant was prayed for to take him into custody, to bring him before the Sheriff for examination, and to take him bound in caution *judicio sisti et judicatum solvi*. The petitioners having taken the usual oath, Hare was consequently detained, and eight o'clock the same evening was fixed for his examination. Accordingly, a little after the hour appointed he was brought into an apartment of the jail for examination, and a number of interrogatories were put to him; but he preserved an obstinate silence in regard to all of them, except the first, we believe, which related in some way to the murder of Jamie, and in reference to which he growled out that he would say no more about it. Several witnesses to whom he had communicated his intention, after getting out of jail, to quit this country and return to Ireland, were then called and examined. Among these was a prisoner of the name of Lindsay, a brisk fellow, with a black scratch wig on the top of his head, who proved distinctly that Hare meant to

leave Scotland and withdraw to some part of Ireland; and having finished his deposition, volunteered his unqualified testimony in favour not only of Hare but also of Burke. This fellow, whose misfortune as well as fault it is to be alimented and housed at the public expense, and who is not yet a man of *tried* character, although it will soon, we understand, be put to the test, observed that he knew both Burke and Hare well; that in particular he had slept for a considerable time with the former before his trial; and that he was decidedly of opinion they were *the best Irishmen he ever knew:* from which we would charitably infer that his acquaintance has been rather limited and somewhat select. Several turnkeys gave evidence to the same effect with this *youth* as to the expressed intentions of Hare; and ultimately the Sheriff granted warrant for the incarceration of the latter, until he should give caution *judicio sisti.* When Hare discovered the turn things were taking, he recovered the use of his speech, and said twice or three times, "Ye're no giving me justice; I'm sure, gentlemen, ye're no giving me justice." Observing him getting the better of the caution he had previously observed, several questions were put to him, without however eliciting any satisfactory answers. "What would you do if you were to get out of jail?" "I do not know; I must do something; I have no money." "Do you consider yourself in danger from the mob?" He gave no audible answer to this question, though he seemed to be muttering something. "Would you consider yourself safe in Edinburgh?" "No, I would not consider myself safe in Edinburgh." "Would you consider yourself safe in any other part of this country?" My mind and heart tell me that I ought to be safe?" This answer excited some surprise, for had it been competent to prove any thing except his expressed intentions to quit the country

upon his liberation, witnesses might have been easily produced to whom he had admitted the murder, from all prosecution for which he is now for ever free. The appearance of Hare upon this occasion was more than usually hideous and forbidding. The "squalid wretch" of the witness box will not soon be forgotten by those who happened to see him there; but on Monday night he was incomparably more gruesome and growlish; for in order to facilitate the operations of some Phrenologists, who had just finished taking a cast of his head, his hair had been mown down to the very sconce, with the exception of a fringe bordering the scalp all round, thus blending in his appearance the ludicrous with the horrid in a way and manner that defies all description. His behaviour, however, was rather dogged and cautious than impudent or forward. When he first entered the apartment, he seemed very much at his ease; but when he came to understand, after repeated explanations, the object of the proceedings, he grew exceedingly restless and fidgetty, neither his "mind or heart telling him" that farther imprisonment was likely to prove either convenient or salutary. Upon the whole, however, he is certainly one of the coolest and most collected villains that ever lived; and we are convinced that the only consideration which gave him a moment's uneasiness is an accidental vision of the gallows flitting across his imagination. To this favour, indeed, we have little doubt that he will ultimately come.

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The following admirable description from the graphic pen of John M'Diarmid, Esq. editor of the Dumfries and Galloway Courier, a gentleman to whom literature is much indebted, furnishes every particular that can be required

of Hare's proceedings after his liberation from the Calton-hill Jail.

We were roused from our bed on the morning of Friday the 6th of February, by a messenger who stated that the miscreant Hare had arrived in Dumfries. At first we could hardly credit the intelligence, after what we had seen stated in the Edinburgh papers; but on repairing to the coach office at the King's Arms Inn, a little after eight o'clock, we discovered that the news was too true. By this time a considerable crowd had collected, and every moment added to its density. On being admitted to the hateful presence of the man, we found him, as was natural, exceedingly reserved on certain points, but sufficiently communicative regarding others—particularly the means employed, as he alleged, by certain authorities, to facilitate his escape to his native country. At a little past eight on Thursday night, while a very different impression prevailed in Edinburgh, he was released from his cell in the Calton-hill Jail, and after being muffled in an old camlet cloak, walked in company with the head Turnkey, as far as the Post-Office on Waterloo Bridge, without meeting with the slightest molestation. At this point his companion called a coach, and conveyed him to Newington, where the two waited till the mail came up. The guard's edition of the story varies thus far—that he took up an unknown passenger in Nicolson Street, and was ordered to blow the horn there. But the difference is immaterial, and might easily arise from Hare's state of mind, and ignorance of the ever shifting localities of Edinburgh. Be this as it may, he got safely seated on the top of the mail, without challenge, and without suspicion. In the way-bill he figured as a Mr. Black,—not an inappropriate name—and the tall man who came to see him off, exclaimed, when

the guard said "all's right,"—"good bye Mr. Black, and I wish you well home!" At Noblehouse, the second stage on the Edinburgh road, twenty minutes are allowed for supper, and when the inside passengers alighted and went into the Inn, Hare was infatuated enough to follow their example. At first, however, he sat down near the door, behind backs, with his hat on, and his cloak closely muffled about him. But this backwardness was ascribed to his modesty, and one of the passengers, by way of encouraging him, asked if he was not perishing with cold. Hare replied in the affirmative, and then moving forward, took off his hat and commenced toasting his paws at the fire—a piece of indiscretion that can only be accounted for by his imbecility of character. And little indeed was the wretch aware that Mr. Sandford, advocate, one of the counsel employed against him in the prosecution at the instance of Daft Jamie's relations, was then standing almost at his elbow. A single glance served all the purposes of the fullest recognition, and as Hare naively enough remarked, "he shook his head at me,"—we suppose it was a shake after the fashion of the ghost in Macbeth, and that the wretch was so well aware of its significancy, that he felt his blood freezing in its course, and that his hair, if the phrenologists had left any remaining, would have bristled "like quills upon the fretted porcupine." When the guard blew his horn, the associate of Burke managed to be first at the coach door, and as there happened to be one vacant seat, was allowed to go inside. But Mr. S. on coming forward, immediately discovered what had taken place, and although something was said about the coldness of the night, determinedly exclaimed, "take that fellow out." Again, therefore, he was transferred to the top, and then Mr. S. to explain perhaps his seeming harshness, revealed to his fellow travellers—(two of our own towns-

men)—a secret which we devoutly wish he had kept. News, whether good or bad, partake of the diffusive nature of light, and at Beattock, the guard, and even the driver, became as learned as others, though not half so close. Still as the hour was early, the night dark, and the inmates asleep, no disturbance of any kind occurred until the tocsin was sounded in this town. Each of our townsmen had a servant in waiting to receive his luggage, and the moment Jack and Bill, Tom or Peter, received a hint, the news flew like wild-fire in every direction. We have already spoken of the crowd that had assembled shortly after eight o'clock, and by ten it had become perfectly overwhelming. Nearly the whole of the High Street was one continued mass of people, so closely wedged, that you might have almost walked over their heads, while Buccleuch Street was much in the same state; and to express much in few words, the one, as far as numbers went, reminded us of a great fair when the country empties itself of its population, and the other of what takes place at an execution. The numbers of the people are variously estimated, but the best judges are of opinion that they could not be under 8,000. As it was known that Hare was bound to Portpatrick, the mob every where evinced the greatest anxiety to see him pass and pay their respects to him in their *own way*. But in the interim of more than four hours, that elapses between the arrival of the Edinburgh, and departure of the Galloway or Portpatrick mail, hundreds if not thousands were admitted to see him; and if poll-tax had been levied during the day, from the multitudinous visitors to the wild beast, a large fund might have been raised for the purposes of charity, though we question whether the poorest person in town would have pocketed a farthing so ignominiously come by. The Edinburgh mail arrived about twenty minutes before seven, and

as the crowd were soon on the *qui vive,* it became necessary to secrete Hare in the tap-room attached to the King's Arms. Here, from the first, he was surrounded by a knot of drivers and other persons, and as ale was handed to him, he commenced clattering to all and sundry, and drinking absurd toasts—such as, "bad luck to bad fortune." At this time he appeared to be the worse of liquor; and when interrogated as to his personal identity, he replied that he was indeed the man, and that "there was no use of denying it now;" but all questions regarding his crimes he evaded, by stating that "he had said enough before"—"had done his duty in Edinburgh," &c. &c. To have pressed him on such points would have been the height of folly, for even if he had been disposed to speak out, no reliance could have been placed in his statements; and just as ill-timed, in our opinion, were the threatenings addressed, and the reproaches showered upon him by a variety of persons. Betwixt nine and ten o'clock an intelligent gentleman visited Hare, and shortly after he was taken into a closet off the tap-room, and left in the presence of three individuals. After various questions, touching chiefly his early history, in the course of which he stated that he had almost no money, and had tasted no food from the time he had left the prison, the gentleman alluded to gave him a sovereign, and this piece of kindness seemed to surprise him so much that he actually burst into tears, though his bearing had been sufficiently unflinching before. When this visitor retired, those without forced the door, and crowded the closet to suffocation. In an instant Hare was nosed, and squeezed into the smallest possible corner, and strongly reminded us of a hunted fox when he stops short, turns round, shows his teeth, though unable to fly, and vainly attempts to keep the jowlers at bay. In the absence of the police, his situation was far from being free from

danger; and amidst a dreadful torrent of other imprecations "Burke him! Burke him!" resounded so loudly, that we actually believed he would be murdered on the spot. One old woman—the only one in the crowd—was particularly emphatic and ferocious in her gestures, and seemed anxious to get forward to strike "the villain" with the butt-end of a dirty ragged umbrella. But she could not make her way through the crowd; and lucky it was for the object of her abhorrence; for mischief, like fire, needs only a beginning, and if but one individual had set an example of violence, we believe it would have been very generally followed. When the police arrived, the room was cleared, and Hare re-conveyed to the tap-room, where crowds continued to visit him, almost up to the hour, (eleven o'clock) when the Galloway mail was expected to start. With a view to this, the inn yard was cleared not without difficulty, the horses put to, and the coach brought out; but the mob, who, Argus-like, and with far more than *his* eyes, anxiously watched every opportunity, had previously taken their plans almost by instinct, and their aspect appeared so truly threatening, that it was impossible to drive the mail along the High Street, if Hare was either out or inside, with safety to any person connected with it. In these circumstances, and while two passengers were sent forward a few miles in gigs, the coach started perfectly empty, if we except the guard and driver, and one of Bailie Fraser's sons, who seemed anxious to protect his father's property. The crowd opened and recoiled so far, and the tremendous rush—the appalling waves on waves of people—far exceeded in magnitude and intensity, any thing we ever witnessed in Dumfries before. When near the post-office, the coach was surrounded, the doors opened, and the interior exposed; and though this proceeding served to allay suspicion, the cry soon resounded far and wide that the mis-

creant, who was known to be a small man, had managed to squeeze himself into the boot. We have said that the mob had concocted a plan, and from all we can learn, their resolution was, to stop the mail at the middle of the bridge, and precipitate Hare over its goodly parapet into the river. Failing this, they had fully determined to way-lay the coach at Cassylands toll-bar, and subject him to some other species of punishment; and in proof of this, we need only state, that they had forcibly barricaded the gates. But when it became obvious that Hare was neither in nor on the mail, the guard and driver were allowed to proceed; and we here mention, that Mr. Fraser, jun. while returning home on foot, was hooted and threatened, merely from having been upon the top of the mail. Even those who interfered in his behalf, were exposed to a shower of mud, and ourselves among others, was so honoured for daring to take the part of an unoffending citizen. But that is a matter of no moment, otherwise we could tell a number of similar tales. Hare, as we have said, was not allowed to go by the mail, and when that fact became generally known, group after group continued to visit the monster's den, though policemen with their staves guarded the mouth of the King's Arms Entry, kept the mob at bay, and only admitted whom they pleased. By these successive visitors, he was forced to sit or stand in all positions, and cool, and insensate, and apathetic as he seems, he was occasionally almost frightened out of his wits. Abuse of every kind was plentifully heaped on him, as the only fitting incense that could meet his ear; and one woman, it is said, seized him by the collar, and nearly strangled him; while a sturdy ostler who happened to be present, though perhaps not at the same moment, addressed him in these emphatic words—"Whaur are ye gaun, or whaur can ye gang to?—Hell's ower good for

the like o' you—the very deevils, for fear o' mischief, wadna daur to let ye in; and as for heeven that's entirely out o' the question." Another man told him that he should never rise off his knees, and many that "he should hang himsel' on the first tree he cam' to." On one occasion he was menaced by a mere boy, while others urged him on and took his part, and at this time he became so much irritated that he told them "to come on and give him fair play." A second time when pressed beyond what he could bear, he took up his bundle and walked to the door, determined, as he said, to let the mob "tak' their will o' him." In this effort, he was checked by a medical man; but it would be endless to repeat all that occurred while Hare remained a prisoner in the tap-room.

During the whole forenoon Mr. Fraser was apprehensive for the safety of his premises, and naturally anxious to eject the culprit who had rendered them so obnoxious. In fact, the whole town was so completely convulsed, that it was impossible to tell what would happen next, and in these circumstances, and after due deliberation, on the part of our magistrates, who had a very onerous duty to perform, an expedient was hit on and successfully executed, though the chances seemed ten to one against it. Betwixt two and three o'clock, a chaise and pair were brought to the door of the King's Arms Inn, a trunk buckled on, and a great fuss made; and while these means were employed as a decoy duck, another chaise was got ready almost at the bottom of the back entry, and completely excluded from the view of the mob, if we except a posse of idle boys. The next step was to direct Hare to clamber or rather jump out of the window of his prison, and crouch like a cat along the wall facing the stables, so as to escape observation. This part of his task was well executed, and

the moment he got to the bottom and jumped into the chaise, the doors were closed and the postilion ordered to drive like Jehu. And rarely has a better use been made of the whip; and never perhaps, in the memory of man, did a chaise rattle so furiously along the streets of Dumfries. To pass Mr. Rankine's, and round the corner at Mrs. Richardson's brewery, was literally the work of a few moments, and here the turn was taken so sharply, that the chaise ran for some time on two wheels, and had very nearly been overturned. Had it really upset, Hare, to a certainty, would have been torn to pieces; but the driver knew that he was engaged in a very perilous service, and proceeded onwards at a prodigious pace, lashing right and left all the while. The mob by this time had become suspicious that a manœuvre of some kind was in the act of being executed, and as the chaise-driver had a considerable round to make, they moved in a twinkling, and in prodigious masses, with the view of intercepting him about the middle of the Sands. The rush down Bank Street baffles all description, and can only be compared to the letting out of waters, or rather to the descent of a mighty cataract. Even from the opposite side of the river, numbers, when they witnessed the speed of the chaise, immediately suspected what had taken place, and rushed with such fury across the Old Bridge, that the driver ran the greatest possible risk of being outflanked and surrounded on every side; and nothing, in fact, but the mettle of his steeds, and the willing arm that urged them forward, saved his passenger from instant death, and himself, perhaps, from a terrible sousing. At every little interval he was intercepted and threatened; and though Hare endeavoured to keep up the near pannel, and also cowered down to be out of harm's way, three stone were thrown at, and entered the chaise—one of them heavy enough to have knocked his

brains out. "Stop! stop! let the murderer out!" were shouted by a hundred voices at once; and while some stood still from inability to run, others immediately supplied their places, and closed up almost with the speed of thought, nearly the whole wake of the careering vehicle, As an impression prevailed that the driver meant to gallop out the Galloway road, there was a general rush to the western angle of the New Bridge, and this mistake operated as a diversion in his favour. Nor were the few moments gained mis-employed. The sharp corner of Dr. Wood's laboratory was cleared almost at a single bound, and as he had then a broad street before him, nothing could well exceed the fury with which he drove up to the jail door. Mr. Hunter had previously received his clue, and though a strong chain was placed behind the door, an opening was left to admit the fugitive; and into this gulph he leapt, hop-step-and-jump—a thousand times more happy to get into prison than the majority of criminals are to get out of it! His escape enraged the mob greatly, and the scene of action must now be shifted from the King's Arms Inn to the neighbourhood of the jail. As their numbers increased, they laid regular siege to this place of safety, preventing all ingress or egress excepting at considerable personal risk. From four to eight o'clock nothing but clamour and rioting were heard; and at night fall they smashed and extinguished the nearest gas lamps, for reasons that may be easily enough conceived. The ponderous knocker of a most ponderous door was wrenched from its socket by main force, and successive showers of stones thrown with such violence into the court-yard, that the chimney cans of some of the buildings were broken. For want of a better battering-ram, the same means were tried to force the entrance to the jail, and the rebound of the stones was so loud, incessant, and long continued, that the

inhabitants of Buccleuch Street were under the greatest apprehensions for the safety of their dwellings. Though the militia staff and police exerted themselves to the utmost, their numbers were inadequate to preserve proper order; and it was not till near eight o'clock, when a hundred special constables were sworn in, and appeared armed with batons on the spot, that the peace of the town was re-assured. Previous to this, nearly the whole front windows of the court-house were smashed, as well as a few in an adjoining building, though that, we believe, occurred by accident. By some, too, it was proposed to pay a similar compliment to every doctor in town, and by others to provide tar barrels and peats for the purpose of firing the doors of the jail. Indeed, from what we have heard, it seems nearly certain that the latter scheme would have been carried into execution, and that nothing prevented the jail from being partially burnt and sacked, but the swearing in of the special constables—a measure that should have been adopted some hours earlier. In spite of the noise occasioned by the uproar and ceaseless hum of human voices, Hare was in bed and sound asleep; and we dare say our authorities were a good deal puzzled what to do with him, and very heartily banned the cause that had led him to pollute Dumfries with his hateful presence. During the whole day, business had been interrupted, if not suspended, and it was feared, if he remained overnight, that the scenes of Friday would be renewed and aggravated, by large importations of persons from the country. Still so long as the streets leading to the jail, and other parts of the town were in a state of commotion, it seemed next to impossible to get out of the way, and if the mob had remained firm to their purpose of keeping vigilant watch and ward, we know not what would have been the final result. But as the night waxed their reso-

lution cooled, and at one o'clock on Saturday morning not a single individual was seen in Buccleuch Street beyond those on official duty. As the opportunity was too good to be lost, Hare was roused from his troubled slumbers, and ordered to prepare for his immediate departure. While putting on his clothes he trembled violently, and inquired eagerly for his cloak and bundle. But as these articles were not at hand, he was told that he must go without them, and thank his stars into the bargain that he had a prospect of escaping with whole bones. As the whole population of Galloway were in arms, and as the mail had been surrounded and searched on Friday at Crocketford toll-bar, and probably at every other stage betwixt Dumfries and Portpatrick, it was in vain to escort him across the bridge; and in these circumstances he was recommended to take another route. He at once consented, and after being guided to Hood's loaning by two militia-men and a Sheriff's officer, and fairly put on the Annan road, he was left to his own reflections and resources. At three o'clock he was seen by a boy passing Dodbeck, and must have been beyond the Border by the break of day, though a report was circulated on Saturday and Sunday, that he had been discovered at Annan and stoned to death. But this mistake was corrected yesterday by the driver of the mail, who reported that he saw him at a quarter past five on Saturday evening, sitting beside two stone-breakers on the public road, within half a mile of Carlisle. As the coach passed he held down his head, but the driver recognised him, notwithstanding, as well as a gentleman who was on the top of the mail. The news soon spread, and as a number of persons went to see him, he was told he would be murdered if he went into Carlisle; and although he appeared completely "done up," he turned off by the New-

castle road, and doubtless made his bed in the open fields.

Since writing the above, we have learnt that Hare was seen on Sunday morning last, at a small village about two miles beyond Carlisle. During the preceding night, he had slept, as is believed, in an out-house, and seemed to be moving onwards trusting to circumstances, and without any fixed purpose, if we except the wretched one of prolonging, as long as possible, his miserable life. In England he is certainly much safer than in Scotland, particularly since the publication of Burke's confession; but still it is hardly possible, and certainly not desirable that a wretch such as he is—steeped to the very chin in blood—should find a permanent resting place for the sole of his foot in any part of the British dominions. While a late great fugitive found only foes in the officers of justice, almost every man is naturally and irresistibly the enemy of Hare; and, perhaps, since the days of our first parents, there never existed a human being, of whom it could be said with less justice, "the world is all before him, where to choose his place of rest." Like the first murderer, he bears a mark about him, which even those who run may read; and seared and ossified as his conscience may be, there is a worm gnawing at it, that will never die; and we fondly hope, that the intense moral loathing—the universal execration—the curses deep as well as loud—excited by crimes, which make humanity turn pale, will have more effect than a hundred acts of Parliament, in blotting out similar crimes from our calendar, and restoring Scotland to its wonted propriety. Still we rejoice that our Magistrates were firm and enlightened enough to prevent any thing like personal violence from being offered to the miscreant in this town; a feeling which, if necessary, we could justify on a thousand and one grounds. It has been often

said that most of the horrors of the French Revolution might be ascribed to the first deliberate murder which the populace were allowed and encouraged to perpetrate, and that ever after they appeared to be as insatiable in their thirst for vengeance, as the lion is that has once lapped human blood. If Providence, when he interfered specially in the affairs of the world, left Cain to wander homeless on the face of the earth, why may not Hare be subjected to the same species of punishment? and without wishing to refine too far, we may say, as the Roman said long ago, "every thing must bow to the majesty of the law; and that from the weightiest circumstance down to the smallest, there is a medium course—a middle path—beyond which no rectitude can exist."

## HARE'S APPEARANCE, &c.

We believe we speak within bounds, when we say, that scarcely an individual among the thousands who visited Hare here, could have identified him from the descriptions given in the Edinburgh papers; and still less from the caricatures in the shape of wooden blocks or cuts, which, when daubed over with printer's ink, were palmed on the public as excellent likenesses.* Close confinement may have made him thinner, and terror and reflection more subdued; but his features, of course, remain unaltered; and in place of the *goulishness*, *squalor*, and *ferocity*, upon which the changes have been wrung so long, the people in this quarter could only recognise the contrary characteristics of apathy, vacancy, and mental imbecility. His eyes are watery, curiously shaped, and have certainly a peculiarity about them, which seems to hover betwixt leering and

* Mr. M'D. does not appear to have seen our copperplate engraving, which is allowed to be an excellent likeness.

squinting; the forehead is low, as in all murderers; combativeness is large—destructiveness middling; the nose, mouth, and chin, very vulgar and common-place; and his countenance, on the whole, though it may betray more or less of what we may call a sinister dash of expression, indicates anything but intense ferociousness. The common remark was, that "he was a poor silly-looking body;" and nothing can better describe his appearance; for though Hare is certainly no beauty, every one has seen hundreds of uglier men. He can neither read nor write, and his mind, in other respects, is just as untutored as an Esquimaux Indian's. What is called the moral sense, seems in him to stand below *zero*; and in this opinion we are borne out by all the medical gentlemen who had an opportunity of seeing and conversing with him here. He is five feet six inches high, and weighed, he says, at one time, 10 stones. When his venerable, and we understand, respectable mother, visited Edinburgh about a fortnight after he was apprehended, she stated that he was about twenty-five years of age, and this part of his personal history he seems only to know on her authority. He is a native of Armagh, though he refused to tell the particular parish. His father, who is dead, was a Protestant; his mother is a Catholic; and though he never cared much about the matter, and either could not, or would not give the name of the priest he attended, he seems inclined to prefer his mother's religion. He has two brothers and two sisters alive. He came to Scotland ten years ago, and after landing at Workington, travelled to Newcastle, &c. He worked seven years with Mr. Dawson, at the canal boats, Edinburgh, and two years with Mr. Johnston, quarryman. He married more than two years ago, and has two children. His wife, he says, was lately in Glasgow, and got somebody to write a letter to the governor of the jail, stating particulars "which are nobody's

business," and suggesting an arrangement for meeting her husband in some part of Ireland. With regard to Burke, his statements were so loose and contradictory, that we question whether any one heard him say the same thing twice over. Sometimes he denied, and sometimes admitted that he had seen his confession; sometimes hinted that the whole truth was not yet known, and at others that far more had been said than was true. To one person he averred that he had only witnessed two murders; and he was only, perhaps, consistent in this, that he seemed uniformly willing to blacken his associate, and whitewash himself. Burke's statement that his female associate had no knowledge of the murders committed, goes far to damage his whole testimony, and if both assassins had been confessed and gibbetted, we question whether the truth could have been got at between them; and though we think it right to give the above particulars, we would not, for our own parts, believe a single word that Hare says, where the the circumstance he speaks to is at all material, if unsupported by other evidence. To one gentleman who pressed him pretty closely, he positively declared that he believed that even Paterson himself was ignorant of the manner in which *they* (meaning, of course, Burke and himself), came by so many subjects. A great number of persons were certain that they had seen Hare before, and one or two farmers insisted that he had worked as a reaper on their lands. But he denied ever having been in Dumfries-shire or Galloway, and it seems probable that this is the real truth, otherwise it is very difficult to explain why he did not leave the mail at Albany Place and proceed to Portpatrick quietly on foot, before the hue and cry was raised here. To one of the individuals who saw him out of town, and who strove to open his eyes to the enormity of his guilt, he remarked, as soon as he could speak from ter-

ror, " this has been a terrible day for me." " Yes," said the other, " more terrible than any day I ever witnessed in Dumfries, and all owing to your own character." To this he seemed to assent, and added emphatically, " I see it now." Again the other enforced the great duty of repentance, and found him, for the moment, apparently penitent, though he soon recurred to his worldly prospects, and said, " it's of no use going to my own country—or indeed anywhere." On this his guide advised him to try and get to the South, and inlist as a private in some of the regiments of the East India Company. His answer was, " God knows what I will do, though I must do something." And here he went on his way, after offering to shake hands with the officers, and thanking them for seeing him out of town.

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Hare has not been heard of since the morning of Sunday the 8th Feb. It is probable that he has found his way to Liverpool, where a passage to Dublin could be readily procured, or that he has embarked at one of the Cumberland ports. By this time he may be in Ireland, where he can hide his guilty head with less fear of detection. We may hope that his presence will never again pollute our soil.

## CONFESSIONS OF WILLIAM BURKE.

That our readers may not be disappointed, we print entire the confessions of Burke as received by the Sheriff, as well as the more complete one obtained by the Courant newspaper. The account of his crimes contained in our memoir was so full and correct, that these might almost have been spared; but even at the risk of incurring the charge of repetition, we present whatever possesses interest.

### LETTER FROM THE SHERIFF TO THE RIGHT HON. THE LORD PROVOST.

*Sheriff's Office, Edinburgh, Feb.* 5, 1829.

My Lord Provost,

As it is now fully understood that all proceedings of a criminal nature against William Hare have terminated, it has appeared to the Lord Advocate, that the Community have a right to expect a disclosure of the contents of the Confessions made by William Burke after his conviction. I have, therefore, been directed to place those Confessions in your Lordship's hands, with a view to their being given to the public, at such time, and in such a manner as you may deem most advisable.

Your Lordship is already aware that the first of these Confessions was taken by the Sheriff-Substitute, on the 3d day of January last, in consequence of Burke having intimated a wish to that effect. The second was taken on the 22d of the same month, a few days before Burke's execution; and in order to give it every degree of au-

thenticity, Mr. Reid, a Roman Catholic Priest, who had been in regular attendance on Burke, was requested to be present.

It may be satisfactory to your Lordship to know, that in the information which Hare gave to the Sheriff on the 1st of December last, (while he imputed to Burke that active part in those deeds, which the latter now assigns to Hare,) Hare disclosed nearly the same crimes in point of number, of time, and of the description of persons murdered, which Burke has thus confessed; and in the few particulars in which they differed, no collateral evidence could be obtained calculated to show which of them was in the right.

Your Lordship will not be displeased to learn, that after a very full and anxious inquiry, now only about to be concluded, no circumstances have transpired calculated to show that any other persons have lent themselves to such practices in this city, or its vicinity; and that there is no reason to believe, that any other crimes have been committed by Burke and Hare, excepting those contained in the frightful catalogue to which they have confessed.

In concluding, I need hardly suggest to your Lordship the propriety of not making those Confessions public, until such time as you are assured that Hare has been actually liberated from Jail. I have the honour to be, My Lord, your Lordship's most obedient humble servant,

AD. DUFF.

*The Right Hon. the Lord Provost, &c. &c.*

## OFFICIAL CONFESSIONS OF BURKE IN THE JAIL.

Present, Mr. George Tait, Sheriff-Substitute; Mr. Archibald Scott, Procurator-Fiscal; Mr. Richard J. Moxey, Assistant Sheriff Clerk.

*Edinburgh, 3d Jan.* 1829.

Compeared William Burke, at present under sentence of death in the gaol of Edinburgh, states, that he never saw Hare till the Hallow-fair before last, (November 1827,) when he and Helen M'Dougal met Hare's wife, with whom he was previously acquainted, on the street; they had a dram, and he mentioned he had an intention to go to the west country to endeavour to get employment as a cobbler, but Hare's wife suggested that they had a small room in their house which might suit him and M'Dougal, and that he might follow his trade of a cobbler in Edinburgh,—and he went to Hare's house, and continued to live there, and got employment as a cobbler.

An old pensioner, named Donald, lived in the house about Christmas 1827; he was in bad health, and died a short time before his quarter's pension was due—that he owed Hare L. 4; and a day or two after the pensioner's death, Hare proposed that his body should be sold to the doctors, and that the declarant should get a share of the price. Declarant said it would be impossible to do it, because the man would be coming in with the coffin immediately; but after the body was put into the coffin, and the lid was nailed down, Hare started the lid with a chisel, and he and declarant took out the corpse and concealed it in the bed, and put tanner's bark from behind the house into the coffin, and covered it with a sheet, and nailed down the lid of the coffin, and the cof-

fin was then carried away for interment. That Hare did not appear to have been concerned in any thing of the kind before, and seemed to be at a loss how to get the body disposed of, and he and Hare went in the evening to the yard of the College, and saw a person like a student there, and the declarant asked him if there were any of Dr. Monro's men about, because he did not know there was any other way of disposing of a dead body—nor did Hare. The young man asked what they wanted with Dr. Monro, and the declarant told him that he had a subject to dispose of, and the young man referred him to Dr. Knox, No. 10, Surgeons' Square, and they went there, and saw young gentlemen whom he now knows to be Jones, Miller, and Ferguson, and told them that they had a subject to dispose of, but they did not ask how they had obtained it; and they told the declarant and Hare to come back when it was dark, and that they themselves would find a porter to carry it: Declarant and Hare went home, and put the body into a sack, and carried it to Surgeons' Square, and not knowing how to dispose of it, laid it down at the door of the cellar, and went up to the room where the three young men saw them, and told them to bring up the body to the room, which they did, and they took the body out of the sack, and laid it on the dissecting table: That the shirt was on the body, but the young men asked no questions as to that, and the declarant and Hare, at their desire, took off the shirt, and got L.7, 10s. Dr. Knox came in after the shirt was taken off, and looked at the body, and proposed they should get L.7, 10s. and authorised Jones to settle with them; and he asked no questions as to how the body had been obtained. Hare got L.4, 5s., and the declarant got L.3, 5s. Jones, &c. said that they would be

glad to see them again when they had any other body to dispose of.

Early last spring, 1828, a woman from Gilmerton came to Hare's house as a nightly lodger, Hare keeping seven beds for lodgers: That she was a stranger, and she and Hare became merry, and drank together; and next morning she was very ill in consequence of what she had got, and she sent for more drink, and she and Hare drank together, and she became very sick and vomited, and at that time she had not risen from bed, and Hare then said that they would try and smother her in order to dispose of her body to the Doctors: That she was lying on her back in the bed, and quite insensible from drink, and Hare clapped his hand on her mouth and nose, and the declarant laid himself across her body in order to prevent her making any disturbance, and she never stirred, and they took her out of bed and undressed her, and put her into a chest, and they mentioned to Dr. Knox's young men that they had another subject, and Mr. Miller sent a porter to meet them in the evening at the back of the Castle; and declarant and Hare carried the chest till they met the porter, and they accompanied the porter with the chest to Dr. Knox's class-room, and Dr. Knox came in when they were there; the body was cold and stiff. Dr. Knox approved of its being so fresh, but did not ask any questions.

The next was a man named Joseph, a miller, who had been lying badly in the house: That he got some drink from declarant and Hare, but was not tipsy; he was very ill, lying in bed, and could not speak sometimes, and there was a report on that account that there was fever in the house, which made Hare and his wife uneasy in case it should keep away lodgers, and they (declarant and Hare) agreed that they should suffocate him for the

same purpose, and the declarant got a small pillow and laid it across Joseph's mouth, and Hare lay across the body to keep down the arms and legs, and he was disposed of in the same manner, to the same persons, and the body was carried by the porter who carried the last body.

In May 1828, as he thinks, an old woman came to the house as a lodger, and she was the worse of drink, and she got more drink of her own accord, and she became very drunk, and declarant suffocated her; and Hare was not in the house at the time; and she was disposed of in the same manner.

Soon afterwards an Englishman lodged there for some nights, and was ill of the jaundice: that he was in bed very unwell, and Hare and declarant got above him and held him down, and by holding his mouth suffocated him, and disposed of him in the same manner.

Shortly afterwards an old woman named Haldane, (but he knows nothing farther of her) lodged in the house, and she had got some drink at the time, and got more to intoxicate her, and he and Hare suffocated her, and disposed of her in the same manner.

Soon afterwards a cinder woman came to the house as a lodger, as he believes, and she got drink from Hare and the declarant, and became tipsy, and she was half asleep, and he and Hare suffocated her, and disposed of her in the same manner.

About midsummer 1828, a woman, with her son, or grandson, about twelve years of age, and who seemed to be weak in his mind, came to the house as lodgers; the woman got a dram, and when in bed asleep, he and Hare suffocated her; and the boy was sitting at the fire in the kitchen, and he and Hare took hold of him, and carried him into the room and suffocated him. They

were put into a herring barrel the same night, and carried to Dr. Knox's rooms.

That, soon afterwards, the declarant brought a woman to the house as a lodger, and after some days she got drunk, and was disposed of in the same manner: That declarant and Hare generally tried if lodgers would drink, and, if they would drink, they were disposed of in that manner.

The declarant then went for a few days to the house of Helen M'Dougal's father, and when he returned, he learned from Hare that he had disposed of a woman in the declarant's absence, in the same manner, in his own house; but the declarant does not know the woman's name, or any farther particulars of the case, or whether any other person was present or knew of it.

That about this time he went to live in Brogan's house, and a woman, named Margaret Haldane, daughter of the woman Haldane before mentioned, and whose sister is married to Clark, a tinsmith in the High Street, came into the house, but declarant does not remember for what purpose; and she got drink, and was disposed of in the same manner: That Hare was not present, and neither Brogan nor his son knew the least thing about that or any other case of the same kind.

That, in April 1828, he fell in with the girl Paterson and her companion in Constantine Burke's house, and they had breakfast together, and he sent for Hare, and he and Hare disposed of her in the same manner; and Mr. Ferguson and a tall lad, who seemed to have known the woman by sight, asked where they had got the body; and the declarant said he had purchased it from an old woman at the back of the Canongate. The body was disposed of five or six hours after the girl was killed, and it was cold but not very stiff, but he does not

recollect of any remarks being made about the body being warm.

One day in September or October 1828, a washer-woman had been washing in the house for some time, and he and Hare suffocated her, and disposed of her in the same manner.

Soon afterwards, a woman, named M'Dougal, who was a distant relation of Helen M'Dougal's first husband, came to Brogan's house to see M'Dougal; and after she had been coming and going to the house for a few days, she got drunk, and was served in the same way by the declarant and Hare.

That "Daft Jamie" was then disposed of in the manner mentioned in the indictment, except that Hare was concerned in it. That Hare was lying alongside of Jamie in the bed, and Hare suddenly turned on him, and put his hand on his mouth and nose; and Jamie, who had got drink, but was not drunk, made a terrible resistance; and he and Hare fell from the bed together, Hare still keeping hold of Jamie's mouth and nose; and as they lay on the floor together, declarant lay across Jamie to prevent him from resisting, and they held him in that state till he was dead, and he was disposed of in the same manner; and Hare took a brass snuff-box and a spoon from Jamie's pocket, and kept the box to himself, and never gave it to the declarant, but he gave him the spoon.

And the last was the old woman Docherty, for whose murder he has been convicted. That she was not put to death in the manner deponed to by Hare on the trial. That during the scuffle between him and Hare, in the course of which he was nearly strangled by Hare, Docherty had crept among the straw, and after the scuffle was over they had some drink, and after that they went both

forward to where the woman was lying sleeping, and Hare went forward first and seized her by the mouth and nose, as on former occasions; and at the same time the declarant lay across her, and she had no opportunity of making any noise; and before she was dead, one or other of them, he does not recollect which, took hold of her by the throat. That while he and Hare were struggling, which was a real scuffle, M'Dougal opened the door of the apartment, and went into the inner passage and knocked at the door, and called out police and murder, but soon came back; and at same time Hare's wife called out, never to mind, because the declarant and Hare would not hurt one another. That whenever he and Hare rose and went towards the straw where Docherty was lying, M'Dougal and Hare's wife, who, he thinks, were lying in bed at the time, or, perhaps, were at the fire, immediately rose and left the house, but did not make any noise, so far as he heard, and he was surprised at their going out at that time, because he did not see how they could have any suspicion of what they (the declarant and Hare) intended doing. That he cannot say whether he and Hare would have killed Docherty or not, if the women had remained, because they were so determined to kill the woman, the drink being in their head; —and he has no knowledge or suspicion of Docherty's body having been offered to any person besides Dr. Knox, and he does not suspect that Paterson would offer the body to any other person than Dr. Knox.

Declares, That suffocation was not suggested to them by any person as a mode of killing, but occurred to Hare on the first occasion before mentioned, and was continued afterwards because it was effectual, and showed no marks; and when they lay across the body at the same time, that was not suggested to them by any person, for they never

spoke to any person on such a subject; and it was not done for the purpose of preventing the person from breathing, but was only done for the purpose of keeping down the person's arms and thighs, to prevent the person struggling.

Declares, That with the exception of the body of Docherty, they never took the person by the throat, and they never leapt upon them; and declares that there were no marks of violence on any of the subjects, and they were sufficiently cold to prevent any suspicion on the part of the Doctors; and, at all events, they might be cold and stiff enough before the box was opened up, and he and Hare always told some story of their having purchased the subjects from some relation or other person who had the means of disposing of them, about different parts of the town, and the statements which they made were such as to prevent the Doctors having any suspicions; and no suspicions were expressed by Dr. Knox or any of his assistants, and no questions asked tending to show that they had suspicion.

Declares, That Helen M'Dougal and Hare's wife were no way concerned in any of the murders, and neither of them knew of any thing of the kind being intended, even in the case of Docherty; and although these two women may latterly have had some suspicion in their own minds that the declarant and Hare were concerned in lifting dead bodies, he does not think they could have any suspicion that he and Hare were concerned in committing murders.

Declares, That none of the subjects which they had procured, as before-mentioned, were offered to any other person than Dr. Knox's assistants, and he and Hare had very little communication with Dr. Knox himself; and declares, that he has not the smallest suspicion of any other person in this, or in any other country, except Hare and

himself, being concerned in killing persons and offering their bodies for dissection; and he never knew or heard of such a thing having been done before.

WM. BURKE.
G. TAIT.

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Present, Mr. Geo. Tait, Sheriff-Substitute; Mr. Archibald Scott, Procurator-Fiscal; Mr. Richard J. Moxey, Assistant-Sheriff-Clerk; the Rev. Wm. Reid, Roman Catholic Priest.

*Edinburgh*, 22*d Jan.* 1829.

Compeared William Burke, at present under sentence of death in the Gaol of Edinburgh, and his declaration, of date the 3d current, being read over to him, he adheres thereto. Declares farther, that he does not know the names and descriptions of any of the persons who were destroyed except as mentioned in his former declaration. Declares, that he never was concerned in any other act of the same kind, nor made any attempt or preparation to commit such, and all reports of a contrary tendency, some of which he has heard, are groundless. And he does not know of Hare being concerned in any such, except as mentioned in his former declaration; and he does not know of any persons being murdered for the purpose of dissection by any other persons than himself and Hare, and if any persons have disappeared any where in Scotland, England, or Ireland, he knows nothing whatever about it, and never heard of such a thing till he was apprehended. Declares, that he never had any instruments in his house except a common table knife, or a knife used by him in his trade as a shoemaker, or a small pocket knife, and he never used any of those instruments, or attempted to do so, on any of the

persons who were destroyed. Declares, that neither he, nor Hare, so far as he knows, ever were concerned in supplying any subjects for dissection except those before mentioned; and, in particular, never did so by raising dead bodies from the grave. Declares, that they never allowed Dr. Knox, or any of his assistants, to know exactly where their houses were, but Paterson, Dr. Knox's porter or doorkeeper, knew. And this he declares to be truth.

WM. BURKE.
G. TAIT.

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*The following is another Confession, as dictated and carefully revised by* WILLIAM BURKE. *The words printed in Italics were added in the Manuscript by himself.*

ABIGAIL SIMPSON was murdered on the 12th February 1828, on the forenoon of the day. She resided in Gilmerton, near Edinburgh; has a daughter living there. She used to sell salt and camstone. She was decoyed in by Hare and his wife on the afternoon of the 11th February, and he gave her some whisky to drink. She had one shilling and sixpence, and a can of kitchen-fee. Hare's wife gave her one shilling and sixpence for it; she drank it all with them. She then said she had a daughter. Hare said he was a single man, and would marry her, and get all the money amongst them. They then proposed to her to stay all night, which she did, as she was so drunk she could not go home; and in the morning was vomiting. They then gave her some porter and whisky, and made her so drunk that she fell asleep on the bed. Hare then laid hold of her mouth and nose, and prevented her from

breathing. Burke held her hands and feet till she was dead. She made very little resistance; and when it was convenient, they carried her to Dr. Knox's dissecting rooms in Surgeons' Square, and got ten pounds for her. She had on a drab mantle, a white grounded cotton shawl and small blue spots on it. Hare took all her clothes and went out with them; said he was going to put them into the Canal. She said she was a pensioner of Sir John Hay's. (Perhaps this should be Sir John Hope.)

The next was an Englishman, a native of Cheshire, and a lodger of Hare's. They murdered him in the same manner as the other. He *was* ill with *the* jaundice at the same time. He was very tall; had black hair, brown whiskers mixed with grey hairs. He used to sell spunks in Edinburgh; was about forty years of age. Did not know his name. *Sold to Dr. Knox for ten pounds.*

The next was an old woman who lodged with Hare for one night, but does not know her name. She was murdered in the same manner as above;—sold to Dr. Knox for L.10. The old woman was decoyed into the house by Mrs. Hare in the forenoon, from the street, when Hare was working at the boats at the canal. She gave her whisky and put her to bed three times. At last she was so drunk that she fell asleep; and when Hare came home to his dinner, he put part of the bed-tick on her mouth and nose, and when he came home at night she was dead. Burke at this time was mending shoes; and Hare and Burke took the clothes off her, and put her body into a tea-box. Took her to Knox's that night.

The next was Margaret Paterson who was murdered in Burke's brother's house in the Canongate, in the month of April last, by Burke and Hare in the forenoon. She was put into a tea-box, and carried to Dr. Knox's dissecting rooms in the afternoon of the same day—and got L.8 for

her body. She had twopence halfpenny, which she held fast in her hand. Declares that the girl Paterson was only four hours dead till she was in Knox's dissecting-room; but she was not dissected at that time; for she was three months in whisky before she was dissected. She was warm when Burke cut the hair off her head; and Knox brought a Mr. ——— a painter to look at her, she was so handsome a figure, and well-shaped in body and limbs. One of the students said she was like a girl he had seen in the Canongate as one pea is like to another. They desired Burke to cut off her hair; one of the students gave a pair of scissars for that purpose.

In June last, an old woman and a dumb boy, her grandson, from Glasgow, came to Hare's, and were both murdered at the dead hour of night when the woman was in bed. Burke and Hare murdered her the same way as they did the others. They took off the bed-clothes and tick, stripped off her clothes, and laid her on the bottom of the bed, and then put on the bed-tick and bed-clothes on the top of her; and they then came and took *the boy* in their arms and carried him ben to the room, and murdered him in the same manner, and *laid* him alongside of his grandmother. They lay for the space of an hour; they then put them into a herring barrel. The barrel was perfectly dry; there was no brine in it. They carried them to the stable till next day; they put the barrel into Hare's cart, and Hare's horse was yoked in it; but the horse would not drag the cart one foot past the Meal Market, and they got a porter with a hurley and put the barrel on it. Hare and the porter went to Surgeons' Square with it. Burke went before them, as he was afraid something would happen, as the horse would not draw them. When they came to Dr. Knox's dissecting-rooms, Burke carried the barrel in his arms. The students and them had hard

work to get them out, being so stiff and cold. They received L.16 for them both. Hare was taken in by the horse he bought that refused drawing the corpse to Surgeons' Square, and they shot it in the tan-yard. He had two large holes in his shoulder stuffed with cotton, and covered over with a piece of another horse's skin to prevent them being discovered.

Joseph, the miller by trade, and a lodger of Hare's. He had once been possessed of a good deal of money. He was connected by marriage with some of the Carron Company. Burke and Hare murdered him by pressing a pillow on his mouth and nose till he was dead. He was then carried to Dr. Knox's in Surgeons' Square. They got L.10 for him.

Burke and Helen M'Dougal were on a visit seeing their friends near Falkirk. This was at the time a procession was made round a stone in that neighbourhood; thinks it was the anniversary of the battle of Bannockburn. When he was away, Hare fell in with a woman drunk in the street at the West Port. He took her into his house and murdered her himself, and sold her to Dr. Knox's assistants for L.8. When Burke went away he knew Hare was in want of money; his things were all in pawn; but when he came back, found him have plenty of money. Burke asked him if he had been doing any business? he said he had been doing nothing. Burke did not believe him, and went to Dr. Knox, who told him that Hare had brought a subject. Hare then confessed what he had done.

A cinder-gatherer; *Burke* thinks her name was Effy. She was in the habit of selling small pieces of leather to him, *as he was a cobbler*, she gathered about the coach-works. He took her into Hare's stable, and gave her whisky to drink till she was drunk; she then lay down among some straw and fell asleep. They then laid a cloth over her.

Burke and Hare murdered her as they *did the* others. She was then carried to Dr. Knox's, Surgeons' Square, and sold for L.10.

Andrew Williamson, a policeman, and his neighbour, were dragging a drunk woman to the West Port Watch-house. They found her sitting on a stair. Burke said, "Let the woman go to her lodgings." They said they did not know where she lodged. Burke then said he would take her to lodgings. They then gave her to his charge. He then took her to Hare's house. Burke and Hare murdered her that night the same way as they did the others. They carried her to Dr. Knox's, in Surgeons' Square, and got L.10.

Burke being asked, did the policemen know him when they gave him this drunk woman into his charge? He said he had a good character with the police; or if they had known that there were four murderers living in one house they would have visited them oftener.

James Wilson, commonly *called* Daft Jamie. Hare's *wife* brought him in from the street into her house. Burke was at the time getting a dram in Rymer's shop. He saw her take Jamie off the street, bare-headed and bare-footed. After she got him into her house, and left him with Hare, she came to Rymer's shop for a penny-worth of butter, and Burke was standing at the counter. She asked him for a dram; and in drinking it she stamped him on the foot. He knew immediately what she wanted him for, and he then went after her. When in the house, she said, you have come too late, for the drink is all done; and Jamie had the cup in his hand. He had never seen him before to his knowledge. They then proposed to send for another half mutchkin, which they did, and urged him to drink; she took a little with them. They then invited him ben to the little room, and ad-

vised him to sit down upon the bed. Hare's wife then went out, and locked the outer door, and put the key below the door. There were none in the room but themselves three. Jamie sat down upon the bed. He then lay down upon the bed, and Hare lay down at his back, his head raised up and resting upon his left hand. Burke was standing at the foreside of the bed. When they had lain there for some time, Hare threw his body on the top of Jamie, pressed his hand on his mouth, and held his nose with the other. Hare and him fell off the bed and struggled. Burke then held his hands and feet. They never quitted their grip till he was dead. He never got up nor cried any. When he was dead, Hare felt his pockets, and took out a brass snuff-box and a copper snuff-spoon. He gave the spoon to Burke, and kept the box to himself. Sometime after, he said he threw the box away in the tan-yard; and the brass-box that was libelled against Burke in the Sheriff's office was Burke's own box. It was after breakfast Jamie was enticed in, and he was murdered by twelve o'clock in the day. Burke declares, that Mrs. Hare led poor Jamie in as a dumb lamb to the slaughter, and as a sheep to the shearers; and he was always very anxious making inquiries for his mother, and was told she would be there immediately. He does not think he drank above one glass of whisky all the time. He was then put into a chest that Hare kept clothes into; and they carried him to Dr. Knox's in Surgeons' Square that afternoon, and got L.10 for him. Burke gave Daft Jamie's clothes to his brother's children, they were almost naked; and when he untied the bundle they were like to quarrel about them. The clothes of the other murdered persons were generally destroyed, to prevent detection.

Ann M'Dougal, a cousin of Helen M'Dougal's former husband. She was a young woman, and married, and had come on a visit to see them. Hare and Burke gave her whisky till she was drunk, and when in bed and asleep, Burke told Hare that he would have most to do with her, as she being a distant friend he did not like to begin first on her. Hare murdered her by stopping her breath, and Burke assisted him the same way as the others. One of Dr. Knox's assistants, *Paterson*, gave them a fine trunk to put her into. It was in the afternoon when she was done. It was in John Broggan's house; and when Broggan came home from his work he saw the trunk, and made inquiries about it, as he knew they had no trunks there. Burke then gave him two or three drams, as there was always plenty of whisky going at these times, to make him quiet. Hare and Burke then gave him L.1, 10s. each, as he was back in his rent, to pay for it, and he left Edinburgh a few days after. They then carried her to Surgeons' Square as soon as Broggan went out of the house, and got L.10 for her. Hare was cautioner for Broggan's rent, being L.3, and Hare and Burke gave him that sum. Broggan went off in a few days, and the rent is not paid yet.* They gave him the money that he might not come against them for the murder of Ann M'Dougal, that he saw in the trunk, that was murdered in his house. Hare thought that the rent would fall upon him, and if he could get Burke to pay the half of it, it would be so much the better; and proposed this to Burke, and he agreed to it, as they were glad to get him out of

* Here, in justice to the proprietor of Broggan's house, we may correct the mistake committed in page 200. That gentleman never received the rent, and never applied for it. It is needless to state, that the inadvertent error conveyed no imputation on him.

the way. Broggan's wife is a cousin of Burke's. They thought he went to Glasgow, but are not sure.

Mrs. Haldane, a stout old woman, who had a daughter transported last summer from the Calton Jail for fourteen years, and has another daughter married to ——, in the High Street. She was a lodger of Hare's. She went into Hare's stable, the door was left open, and she being drunk, and falling asleep among some straw, Hare and Burke murdered her in the same way as they did the others, and kept the body all night in the stable, and took her to Dr. Knox's next day. She had but one tooth in her mouth, and that was a very large one in front.

A young woman, a daughter of Mrs. Haldane, of the name of Peggy Haldane, was drunk, and sleeping in Broggan's house, was murdered by Burke, in the forenoon, himself. Hare had no hand in it. She was taken to Dr. Knox's in the afternoon in a tea box, and L.8 got for her. She was so drunk at the time, that he thinks she was not sensible of her death, as she made no resistance whatever. She and her mother were both lodgers of Hare's, and they were both of idle habits, and much given to drinking. This was the only murder that Burke committed by himself, but what Hare was connected with. She was laid with her face downwards, and he pressed her down, and she was soon suffocated.

There was a Mrs. Hostler washing in John Broggan's, and she came back next day to finish up the clothes, and when done, Hare and Burke gave her some whisky to drink, which made her drunk. This was in the day time. She then went to bed. Mrs. Broggan was out at the time. Hare and Burke murdered her the same way.

they did the others, and put her in a box, and set her in the coal-house in the passage, and carried her off to Dr. Knox's in the afternoon of the same day, and got L.8 for her. Broggan's wife was out of the house at the time the murder was committed. Mrs. Hostler had ninepence halfpenny in her hand, which they could scarcely get out of it after she was dead, so firmly was it grasped.

The woman Campbell or Docherty was murdered on the 31st October last, and she was the last one. Burke declares, that Hare perjured himself on his trial, when giving his evidence against him, as the woman Campbell or Docherty lay down among some straw at the bedside, and Hare laid hold of her mouth and nose, and pressed her throat, and Burke assisted him in it, till she was dead. Hare was not sitting on a chair at the time, as he said in the Court. There were seven shillings in the woman's pocket, which were divided between Hare and Burke.

That was the whole of them, sixteen in whole; nine were murdered in Hare's house, and four in John Broggan's; two in Hare's stable, and one in Burke's brother's house in the Canongate. Burke declares, that five of them were murdered in Hare's room that has the iron bolt in the inside of it. Burke did not know the days nor the months the different murders were committed, nor all their names. They were generally in a state of intoxication at those times, and paid little attention to them; but they were all from the 12th February till 1st November 1828; but he thinks Dr. Knox will know by the dates of paying him the money for them. He never was concerned with any other person but Hare in those matters, and was never a resurrection-man, and never dealt in dead bodies but what he murdered. He

was urged by Hare's wife to murder Helen M'Dougal, the woman he lived with. The plan was, that he was to go to the country for a few weeks, and then write to Hare that she had died and was buried, and he was to tell this to deceive the neighbours; but he would not agree to it. The reason was, they could not trust to her, as she was a Scotch woman. Helen M'Dougal and Hare's wife were not present when those murders were committed; they might have a suspicion of what was doing, but did not see them done. Hare was always the most anxious about them, and could sleep well at night after committing a murder; but Burke repented often of the crime, and could not sleep without a bottle of whisky by his bed-side and a twopenny candle to burn all night beside him; when he awoke he would take a draught of the bottle—sometimes half a bottle at a draught—and that would make him sleep. They had a great many pointed out for murder, but were disappointed of them by some means or other; they were always in a drunken state when they committed those murders, and when they got the money for them while it lasted. When done, they would pawn their clothes and would take them out as soon as they got a subject. When they first began this murdering system, they always took them to Knox's after dark; but being so successful, they went in the day-time, and grew more bold. When they carried the girl Paterson to Knox's, there were a great many boys in the High School Yards, who followed Burke and the man that carried her, crying, "They are carrying a corpse;" but they got her safe delivered. They often said to one another that no person could find them out, no one being present at the murders but themselves two; and that they might be

as well hanged for a sheep as a lamb. They made it their business to look out for persons to decoy into their houses to murder them. Burke declares, when they kept the mouth and nose shut a very few minutes, they could make no resistance, but would convulse and make a rumbling noise in their bellies for some time; after they ceased crying and making resistance, they left them to die of themselves; but their bodies would often move afterwards, and for some time they would have long breathings before life went away. Burke declares, that it was God's providence that put a stop to their murdering career, or he does not know how far they might have gone with it, even to attack people on the streets, as they were so successful, and always met with a ready market; that when they delivered a body they were always told to get more. Hare was always with him when he went with a subject, and also when he got the money. Burke declares, that Hare and him had a plan made up, that Burke and a man were to go to Glasgow or Ireland, and try the same there, and to forward them to Hare, and he was to give them to Dr. Knox. Hare's wife always got L.1 of Burke's share, for the use of the house, of all that were murdered in their house; for if the price received was L.10, Hare got L.6 and Burke got only L.4; but Burke did not give her the L.1 for Daft Jamie, for which Hare's wife would not speak to him for three weeks. They could get nothing done during the harvest-time, and also after harvest, as Hare's house was so full of lodgers. In Hare's house were eight beds for lodgers; they paid 3d. each; and two, and sometimes three, slept in a bed; and during harvest they gave up their own bed when throng. Burke declares they went under the name of resurrection-

men in the West Port, where they lived, but not murderers. When they wanted money, they would say they would go and look for a shot; that was the name they gave them when they wanted to murder any person. They entered into a contract with Dr. Knox and his assistants that they were to get L.10 in winter and L.8 in summer for as many subjects as they could bring to them.

Old Donald, a pensioner, who lodged in Hare's house, and died of a dropsy, was the first subject they sold. After he was put into the coffin and the lid put on, Hare unscrewed the nails, and Burke lifted the body out. Hare filled the coffin with bark from the tan-yard, and put a sheet over the bark, and it was buried in the West Church Yard. The coffin was furnished by the parish. Hare and Burke took him to the College first; they saw a man there, and asked for Dr. Monro or any of his men; the man asked what they wanted, or had they a subject; they said they had. He then ordered them to call at No. 10, Dr. Knox's, in Surgeons' Square, and he would take it from them, which they did They got L.7, 10s. for him. That was the only subject they sold that they did not murder, and getting that high price made them try the murdering for subjects.

Burke is thirty-six years of age, was born in the parish of Orrey, county Tyrone; served seven years in the army, most of that time as an officer's servant in the Donegal militia; he was married at Ballinha, in the county of Mayo, when in the army, but left his wife and two children in Ireland. She would not come to Scotland with him. He has often wrote to her, but got no answer; he came to Scotland to work at the Union Canal, and wrought there while it lasted; he resided for

about two years in Peebles, and worked as a labourer. He worked as a weaver for 18 months, and as a baker for five months; he learned to mend shoes, as a cobbler, with a man he lodged with in Leith; and he has lived with Helen M'Dougal about 10 years, until he and she were confined in the Calton Jail, on the charge of murdering the woman of the name of Docherty, or Campbell, and both were tried before the High Court of Justiciary in December last. Helen M'Dougal's charge was not proven, and Burke found guilty, and sentenced to suffer death on the 28th January.

Declares, that Hare's servant girl could give information respecting the murders done in Hare's house, if she likes. She came to him at Whitsunday last, went to harvest, and returned back to him when the harvest was over. She remained until he was confined along with his wife in the Calton Jail. She then sold twenty-one of his swine for L.3, and absconded. She was gathering potatoes in a field that day Daft Jamie was murdered; she saw his clothes in the house when she came home at night. Her name is Elizabeth M'Guier or Mair. Their wives saw that people came into their houses at night, and went to bed as lodgers, but did not see them in the morning, nor did they make any inquiries after them. They certainly knew what became of them, although Burke and Hare pretended to the contrary. Hare's wife often helped Burke and Hare to pack the murdered bodies into the boxes. Helen M'Dougal never did nor saw them done. Burke never durst let her know; he used to smuggle and drink, and get better victuals unknown to her; he told her he bought dead bodies and sold them to doctors, and that was the way they got the name of resurrection-men.

Enough has been said of the two principal actors in the horrid proceedings. The memory of Burke may be left to that infamy which his unparalleled atrocities merits, when his deeds are recollected, and Hare may be allowed to seek some corner of the world where he may skulk unknown until his miserable existence be terminated. It remains for us only to notice briefly the two subordinate agents who, by their connection with the principal culprits, and participation in their crimes, have gained such an unenviable degree of notoriety. Of these, the first is

## HELEN M'DOUGAL.

She is a native of the small village of Maddiston, in the parish of Muiravonside, and county of Stirling, where she resided in her early life. Her maiden name was Dougal. Her character does not appear to have been good at any time, and her conduct speedily dissipated any doubts that might have existed upon the subject. At an early period of her life she formed an unlawful connection with a man who resided in the same village, to whom she bore a child during the lifetime of his wife. After her death, their intercourse continued; and after a short interval, they cohabited publicly together, she bearing his name of M'Dougal, and passing for his wife. At this period they came to reside in Leith, where M'Dougal followed his occupation of a sawer, until he took the typhus fever at the time that that disease first raged so fearfully in Edinburgh. He became a patient in the hospital opened in Queensberry-house, where he died. His partner, upon his decease, again returned to her native village, and father's house. Shortly after her return she met with Burke, who was a labourer on the Canal, when their adulterous intercourse commenced, and in about a year from

their first acquaintance, they agreed to live together as man and wife. From that time up to his apprehension, she followed his fortunes, and adhered to him in all his wanderings. Wherever they resided, her character seems to have been the same. In Edinburgh, Leith, Peebles, and Pennycuik, she was distinguished for her drunken dissolute habits, and was universally disliked, and considered unworthy even of Burke. Notwithstanding their many quarrels, in which she was frequently the aggressor, she seems to have cherished an ardent effection towards him, and at the termination of his career, to have felt sincerely upon the subject of his unhappy fate. Her own condition, indeed, is not less pitiable, although a Jury has been found who could return a verdict of " not proven" that she was a participator in the murder for which he has suffered death, notwithstanding her being present and aiding him in the stratagems which preceded, and the sale of the murdered body, she is guilty in the eyes of God and man, and is doomed to wander on the face of the earth an outcast from human charities, and an opprobium to human nature. It would almost have been charity to have convicted her along with Burke. Her wretched life is precariously preserved under miseries more horrible than hanging would have been. It was predicted upon her enlargement, that she would realize the fable of the wandering jew, and it seems to have been hitherto fulfilled to the letter. Hunted about from place to place, without being able to find a temporary refuge from her tormentors, she has discovered no person who would maintain social intercourse with her; but, on the contrary, her detection was certainly followed by every species of ill usage and annoyance. We have already adverted to the reception she met with upon her visiting her old haunts in the West Port, and it has only been a sample of what awaited her wherever she went. The next place that she essayed was her father's residence in the village of Red-

MARGARET LAIRD or HARE.

as she appeared in the witness box
taken in Court.

*Published by Thomas Ireland Jun.r Edinburgh.*

ding in Stirlingshire; here she experienced a similar reception, and was obliged to save herself by a precipitate retreat. She has since made various attempts to discover a resting place with a like effect. She has hitherto been recognised wherever she went, and the summary vengeance of the mob exercised upon her. By the latest accounts we find that she has appeared at Newcastle, where again she has been rescued from an infuriated populace by the police officers, who afforded her temporary protection and shelter in the prison. Their sympathy, however, does not appear to extend beyond this, and she was as speedily as convenient escorted by constables to the "blue stone," the boundary of the counties of Northumberland and Durham, and there transferred to the safe conduct of the functionaries of the latter county, for what purpose further than to get rid of the "accursed thing" does not appear.

## MARGARET LAIRD OR HARE.

This other virago seems to have been accounted if possible still more depraved than M'Dougal, and to have possessed all the essentials of that disgusting character, a brutal and abandoned woman. She is a native of Ireland and accompanied her first husband Log to this country. Log bore the character of a decent hard-working man, while she was chiefly remarkable for her masculine and bold habits. Log was a sort of undertaker on the Union Canal, engaging with the contractor to cut small pieces upon the line, and for some time worked at it with a detachment of his countrymen in the neighbourhood of Winchburgh, where his wife worked along with them in the capacity of a labourer, with a man's coat on, wheeling a barrowfull of rubbish as stoutly as any of her fellow-workmen. At that time they inhabited a temporary hut on the banks of the canal, and whatever her conduct after-

wards proved she then exhibited no want of industry. At the conclusion of the work Log settled in Edinburgh and still industriously pursued his course, selling articles about the street and keeping a lodging-house for vagrants. Upon his death this property devolved upon his widow, and she conducted the establishment. She cohabited with one of the lodgers who is described to have been a young and well-looking man, but he quickly broke up their intercourse and left her, when her connection with Hare commenced.

In an eastern tale, we read of a woman forsaking her husband's society to keep company with a "*goule*," with whom she feasted in a burying-ground upon dead bodies. Mrs. Hare appears to have had similar propensities. Her brutal husband, in savageness of disposition, as well as appearance, furnishes an apt illustration of the *goule*; while the horrible means of livelihood he adopted, is not a bad prototype of the revolting banquet of the Oriental monsters. Her whole conduct now became utterly debauched; she was continually in a state of intoxication, and presented at all times the slatternly ferocious aspect of a confirmed and regardless drunkard. Hare and she are surmised to have used foul means in disposing of a child to which she gave birth about the commencement of their intercourse; perhaps her subsequent bad odour may have contributed to this opinion. It is certain, however, that the child, if not murdered, perished through want of proper care and attention. The body was put into a box, and buried in the waste ground at the bottom of Tanner's close. It is surprising that the wretched infant who still survives all the hard usage it has experienced, did not fall a victim in the same way. Her slovenly and careless conduct extended even to this youngest of her offspring, and she is described as carrying it about more like a cat or a dog than an infant. Even after her connection with Hare,

she usually went by her former name of Log, to which was appended the familiar title of "*Lucky*," and the nature of her affinity to Hare was better indicated by their indulging in the connubial luxuries of scolding and fighting, than by any manifestations of affection or regard.

During her confinement in the jail, she kept herself generally retired, remaining principally in the day-room of the ward tending her sick baby, and conducted herself in a peaceable manner.

She was recognised by the populace almost immediately upon her release, and a crowd speedily collected round her. It was a wet, snowy day, and she was unmercifully pelted with snow-balls, mud, and stones, and had some commiseration not been felt for the child which she carried, she would in all probability have fallen a victim to the violence of the mob. She was rescued by the police, and conveyed to the Police-office, where she found shelter and protection. In a few days, she wandered away to Glasgow, where the following account, abridged from the Glasgow Chronicle, will show that her treatment was no better:—

The celebrated Mrs. Hare was this afternoon rescued from the hands of an infuriated populace by the Calton Police, and, for protection, confined in one of the cells. She had left Edinburgh Gaol a fortnight ago, with an infant child, and has since been wandering about the country. She stated that she had lodged in this neighbourhood four nights, with her child, and "her bit duds," without those with whom she lodged knowing who she was, and she was in hopes of quitting this vicinity without detection. For this purpose she remained in her lodging all day, but occasionally, early in the morning, or at twilight, she ventured the length of the Broomielaw, in hopes of being able to procure an immediate passage to Ireland, but had hitherto been disappointed. She had gone

out this morning with the same object, and when returning, a woman who, she says, was drunk, recognised her in Clyde Street, and repeatedly shouted—"Hare's wife—Burke her!" and threw a large stone at her. A crowd soon gathered, who heaped every indignity upon her, and with her child she was pursued into Calton, where she was experiencing very rough treatment, when she was rescued by the police. She says she wrought sixteen years ago in Tureen Street power-loom factory, till she was married to her first husband. About three years ago she unfortunately fell in with Hare, and then her misery commenced. She married him, and has since had three children—one of whom is dead, and another is left behind in Edinburgh. She describes Hare as devoted to the "devil and laziness." She admitted it was needless to deny she knew "something" of the murders, and had a suspicion of what was going on, but not to the full extent.

Hare was often drunk—their house was a complete hell of iniquity, and she was often on the point of exposing his hidden conduct—but was afraid to do so. She left his house three times on account of his brutal usage. She says she would much rather be killed outright than suffer what she has done. She did not require to beg, having had a little money, but she had now scarcely as much as would pay her passage to Ireland.

She was quite ignorant of what had become of her husband since she left Edinburgh. She asked if he had been subsequently tried, and expressed the utmost indifference respecting his fate. She said she was determined never more to associate with him, or have any thing to do with him.

It was truly melancholy to see her stretched on the guard-bed of the cell, in tears, with her infant, eleven months old, clasped to her breast; and, as "the mother of eleven children," imploring the protection of the police, and that they would not make "a show of her." She occasionally burst

into tears while deploring her unhappy situation, which she ascribed to Hare's utter profligacy, and said, all she wished was to get across the Channel, and end her days in some remote spot in her own country, in retirement and penitence. She has since left Greenock in the Fingal, Belfast steam packet.

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The public, in various country towns and villages seem to be absurdly lawless in their conduct towards any unfortunate individuals in whom they choose to recognise a resemblance to the miserable outcasts. Several unfortunate individuals have been subjected to rough treatment in consequence of some fancied likeness to the murderers, and all efforts to undeceive their tormentors rendered unavailing by their determination to execute summary justice upon some one, and their disinclination to allow the victim to escape out of their hands. This inordinate desire of working vengeance has sometimes been exhibited when it was scarcely possible to suppose that the populace could be so senseless as believe that the veritable culprit was in their hands.

While it was perfectly well known that Hare was detained in close confinement, possessing the usual complement of members, a poor itinerant flute blower, who contrives to manage his instrument with one hand and a stump substituted for the other, was assaulted in consequence of some idle reports that he was Hare, and it was with some difficulty that he was rescued. Another unlucky wight was also mistaken for Hare at Kirkliston a few days back, and maltreated in such a manner that he is now a patient in the Royal Infirmary. Although he is directly dissimilar to him in appearance, being a tall dark Scot, and speaking his mother tongue with

a true lowland accent, and we might add many like instances. Even some rural dignitaries have taken occasion to adopt summary measures towards those whose condition allowed them some pretence to display the vigour of the law. In a West Country Burgh, the following narrative is given of a search for M'Dougal;—"The principal rendezvous of 'randy gangrel bodies' was searched; the whole thirty-six beds were overhauled, but she was nowhere to be found; the search however warranted the suspicion that some of the Cadgers who frequented the house had no lawful trade by which their earnings could equal their expenditure,—marked attention was drawn to Pig Jock, as it was evident all the rags he took to Edinburgh, and all the crockery he brought in return, even though stolen, was not sufficient to pay his weekly bill; and it being surmised that the keeper of the house was not ignorant of the ways of his guests, he and Jock have been banished forth of the town."

There seems really very little *legal* evidence against poor Jock, while the landlord's being made accountable "for the ways of his guests" is a stretch of despotism scarcely allowable in a very small township.

Indeed the whole island appears to be "frightened from its propriety," and each town vies with another in adding its quota of alarm. The Burke mania seems destined to exercise as great an influence on the minds of the poorer classes especially, as almost any other mania on record. Nearly every city or hamlet throughout the empire has had its tales of direful attempts at assassination, with their usual accompaniments of waylaying and pitch plaisters applied to the unfortunate victims, while the records of the police courts of the metropolis and other large cities furnish ample testimony of the extent to which the black catalogue of crimes has excited the fears of the people. From all ac-

counts, we cannot doubt that some wicked and heartless individuals have been keeping alive the excitation by their foolish tricks, but we forbear giving extension to the evil by detailing any of them.

On the afternoon of Thursday the 12th of February, occurred what will probably prove the last ebullition of popular feeling on this subject in Edinburgh. It commenced with the dressing on the Calton Hill of an effigy intended to represent a celebrated anatomist. After this ceremony was concluded, the figure was paraded through the principal streets, borne aloft on men's shoulders, with a placard on the back. A countless host of men, women, and children, accompanied the procession to Dr. Knox's house in Newington, where the effigy was *Burked* and torn to pieces, and the windows of the house broken. The mob then attempted to do the same at Surgeons' Square, but were prevented by the police, and dispersed, after traversing several streets, and breaking a number of panes in the College windows, &c.

A gentleman who rode up to Dr. Knox's house, with the view of undergoing a surgical operation, was mistaken for him, and had nearly suffered from the violence of the crowd.

We have already exceeded the limits that we had prescribed, and still have not been able to touch upon the important subject of the best means for supplying the anatomical theatres with bodies for dissection, and we cannot now enter upon it. It is admitted by all enlightened people, that subjects must and will be procured, and that severe legislative enactments only tend to increase the difficulty, and enhance the price. The recent proceedings present a fearful illustration of this opinion; but out of evil, if properly considered, good may be extracted; and these trans-

actions will, indeed, have failed in their effect, should some plan not be devised which, while it saves the feelings of relatives from outrage, may prevent a recurrence of such frightful scenes.

FINIS.

EDINBURGH: PRINTED BY A. BALFOUR AND CO. HIGH STREET.

*The following correspondence has taken place between the publisher and Mr. Johnson, law agent for Mr. Swanston, who conceives himself aggrieved by a passage in Janet Brown's statement, contained in No. 6. As the best way of giving Mr. S.'s justification, we print the letters entire.*

*Edinburgh, 7th February*, 1829. 4, *Grove Street.*

SIR.—Mr. William Swanston spirit-dealer in the Canongate, feels himself much aggrieved by the unwarrantable falsehood under which he is represented in the sixth number, page 126, in the account which you choose to publish of the West Port Murders.

Mr. Swanston knowing the statement to be entirely false, must necessarily think, that in associating his name in such a manner with the late wretched Burke, and singling him out individually in this way, must have been done with a malicious intention of doing an injury, not only to his character, but to his trade. You must have been aware when you published this account, that every person in Edinburgh would have shuddered at the very thoughts of having, however innocently, exchanged words with Burke in his life-time; but what must have been your feeling when you have represented Mr. Swanston as his companion at five o'clock in the morning, and given it again to the public as truth. You were bound as a publisher, in justice to every individual, to have inquired into the truth or falsehood of the statement, and to have asked permission to publish it, supposing the statement to have been correct: because, whether true or false, must have been a great annoyance to any person possessed of any degree of moral feeling.

Mr. Swanston has therefore instructed me to institute an action of damages against you, for reparation for the injury which he must sustain in his own feelings and in his business, as well as in the eye of the public, who must have an inveterate grudge at him, and consequently must shun him in all civil intercourse, resulting from such false, injurious, malicious and calumnious statement, represented by you as an "authentic and faithful history" published by you for your *lucre*.—I am, Sir, your most obedient servant,

(Signed) JOHN JOHNSON.

Mr. THOMAS IRELAND,
Bookseller and Publisher, 57, South Bridge Street.

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*Edinburgh*, 10*th February*, 1829.

SIR,—In consequence of your having taken no notice of my letter to you of the 7th instant, on the subject of your late libellous publication on Mr. Swanston, I presume you mean to justify the fact. I have therefore to intimate to you that the case will be forthwith put into a shape of a summons of damages against you.—I am, Sir, your most obedient servant.

(Signed) JOHN JOHNSON.

Mr. THOMAS IRELAND, Jun.
Publisher and Bookseller, 57, South Bridge Street.

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*Edinburgh*, 57, *South Bridge Street*,
*February* 11, 1829.

SIR,—I have to apologise to you for not answering sooner your letter of the 7th current, complaining of the notice taken of Mr. Swanston in the Trial of Burke at present publishing by me.

In answer to it, and your second of yesterday, I have to state, that I am very sorry that Mr. Swanston should feel at all injured by what has been said of him, and though my information as to what is stated of him was from the best authority,* still I would not wish in the smallest degree, even

* The statement regarding Mr. Swanston, was given by Janet Brown, who was along with Mary Paterson.

by implication, to injure his feelings or his character, and I shall be ready to insert in the shape of a note, in the number about to be published, any statement you and he may wish to make, such statement not to be inconsistent with what is due to myself in such a matter.

Your threat of damages is too fanciful to require from me any serious answer. I am, Sir, your very obedient servant,

(Signed) THOMAS IRELAND, Jun.

To JOHN JOHNSON, Esq.
4, Grove Street, Edinburgh.

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*Edinburgh*, 11*th Feb.* 1829.

SIR,—I am favored with your letter of this date, in answer to my letters of the 7th and 10th inst. And in answer to it I have to inform you that the summons of damages to which I formerly alluded is now in the press with the intention of being served upon you to-morrow. I shall, however, this moment send for Mr. Swanston and shew him your letter; but I conceive that although it is very proper to put a note in any new edition which you may throw off to the purport you mention, still it will not be a whitewasher of the injury which the previous publication has already done. With regard to the action of damages, I can assure you that the notion of it did not originate with himself, but with his acquaintances who first read the publication, and pointed out the injurious tendency of it last Saturday, when I first wrote you on the subject. He felt the effects of it before this, but he did not know a reason then to which he could attribute a *. I am, Sir, your most obedient servant,

(Signed) JOHN JOHNSON.

Mr. THOMAS IRELAND, Jun.
Bookseller and Publisher, 57, South Bridge, Edinburgh.

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*Edinburgh*, 12*th Feb.* 1829.

SIR,—With reference to my letter to you last night, I have now to inform you that I have since seen Mr. Swanston, to whom I read your letter of the 11th inst., and he desires me to say, that as you propose no definite pallinode of the injury which he has sustained, of which you seem to think lightly, he has no farther observation to make, because, were he to make any specific proposition, it would be inconsistent with the view which you take of the matter, and therefore it is quite clear that the parties could not meet each other to the mutual satisfaction. I am, Sir, your most obedient servant,

(Signed) JOHN JOHNSON.

THOMAS IRELAND, Jun. Esq.
Bookseller, 57, South Bridge, Edinburgh.

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*Edinburgh*, 13*th Feb.* 1829.

SIR,—I think it very unnecessary to return any particular reply to your two last letters.

Since you will not condescend to say what would satisfy Mr. Swanston, I shall publish in the forthcoming number of the work, your first letter of the 7th, and my answer of the 11th.

If you wish any thing further inserted, you can let me know in the course of to-morrow forenoon. I am, Sir, your very obedient servant,

(Signed) THOMAS IRELAND, Jun.

To JOHN JOHNSON, Esq.
4, Grove Street, Edinburgh.

* A word here not legible in original.

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